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ABSTRACT

This module, consisting of materials for use in conducting a consumer education mini-course, deals with estate planning. Covered in the individual sections are the following topics: an introduction to estate planning, the Missouri Probate Code and Missouri laws of descent, property ownership, estate taxes, wills, gifts and trusts in estate planning, and selection of a lawyer. Each lesson contains an outline of the major concepts covered in the lesson, suggested activities, a list of instructional materials included in the lesson, a list of pertinent references, test questions, an answer sheet, an information outline, and transparency masters. (MN)

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ESTATE PLANNING

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A SPECIAL NOTE

The material in this mini-course is very complex. The warning that a little knowledge is a dangerous thing is most appropriate here. Despite this caveat, we believe from our experience in pre-testing, that many persons can derive immeasurable benefit from the ideas in this mini-course.

We also suggest that each lesson should be prefaced with a statement by the instructor that the information is technical; that he/she is not a member of the bar or legal attorneys and may not be able to answer all questions.

The instructor should further advise that this information is being provided to assist in estate planning, but that a legal advisor should be consulted before taking definite action.

ESTATE PLANNING

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ESTATE PLANNING

LESSON: Introduction to Estate Planning

CONCEPTS:

1. Everyone has an estate because practically everyone owns some property, real, personal or both.

2. Estate planning consists of building, protecting, conserving, and transferring what you own. This lesson concentrates on protecting, conserving and transferring.

3. There are many tools that can be employed in making plans for conserving, protecting and transferring your estate (what you own).

4. Every person should execute a Letter of Instruction.

SUGGESTED ACTIVITIES:

1. Have students compile a net worth statement (AS-1), even though the amounts might just be estimates. Their "net worth" is roughly the size of their estate.

2. Use AS-2: The Fact Sheet for Financial Planning to illustrate the extent of information that is needed before a thorough evaluation of the estate can be made. The information on this Fact Sheet will be needed to provide estate planners with the information they need to help you in making plans and writing wills.

3. AS-3: The Letter of Last Instructions should be completed by everyone, even if there is no estate and no net worth because it provides other information.

4. Use transparency masters and the information outline to present the necessary information.

INSTRUCTIONAL MATERIALS:

1. AS-1: Net Worth Statement

2. AS-2: Fact Sheet for Financial Planning

3. AS-3: Letter of Last Instructions

4. Transparency masters

   TM-1: What is My Estate

   TM-2: Net Worth Statement

   TM-3: Estate Planning - Why?

   TM-4: Tools of Estate Planning

   TM-5: Tools of Estate Planning (cont.)

REFERENCES:

1. Brosterman, Robert. The Complete Estate Planning Guide. (1982 Revision) New American Library, New York: 1982.

2. Estate Planning for Missouri Families. Manual 68, University of Missouri-Columbia Extension Division, Columbia, Missouri, February, 1982.

3. Rosefsky, Robert S. Personal Finance, Second Edition. New York: John Wiley and Sons, Inc. 1983.

4. Hodgetts, Richard M. Personal Financial Management. Mass: Addison-Wesley Publishing Company, 1983.

5. Weirich, Jean Luttrell. Personal Financial Management. Boston: Little, Brown and Company, 1983.

TEST QUESTIONS

Introduction to Estate Planning

MULTIPLE CHOICE:

1. Unmarried individuals
   a. do not need a will or estate plan because all of their assets will be passed on to parents or surviving children
   b. are unaffected by estate planning because they do not have anyone to own property with as joint owners with right of survivorship
   c. don't need estate plans because they will eventually be married and can prepare the plan then rather than having the expense twice
   d. can use estate plans to direct their assets, to arrange for children's needs at death, and to provide direction at the time of their death

2. When planning your estate, the first thing you should do is
   a. make a will
   b. write a letter of last instructions
   c. gather facts and information about your estate and beneficiaries

TRUE-FALSE:

T F 1. While a person is living, her/his estate is all that the person owns, less all of that person's debts.

T F 2. A major purpose of estate planning is the distribution of one's accummulated wealth and property.

T F 3. The Letter of Last Instructions is a legal document that distributes the assets of the estate.

T F 4. Estate planning should be done to reduce expenses and taxes as a first priority.

T F 5. Every adult person should have a letter of last instructions.

SHORT ANSWER:

1. List four of the most commonly used tools of estate planning.

   1.

   2.

   3.

   4.

Introduction to Estate Planning

Answer Sheet

Multiple Choice:

1. d
2. c

True-False:

1. T
2. T
3. F
4. F
5. T

Listing:

1. Letters of Last instructions
2. Wills
3. Gifts
4. Trusts

ESTATE PLANNING

INTRODUCTION TO ESTATE PLANNING

INFORMATION OUTLINE

I. What is My Estate? (Use TM-1, TM-2).

Everyone has an estate. Your estate might be considered to be your "net worth"--all that you own, plus all that is owed to you, (pension rights might be an example), less all that you owe. A net worth statement can help you to estimate the size of your estate.

Upon death, your estate becomes a legal entity in its own right. The Estate of Sue Brown comes into being upon the death of Sue and is, in a legal sense, the machinery through which Sue's interests and wishes are processed.

Using a "Fact Sheet for Financial Planning" (AS-2) will help you to determine exactly of what your estate consists. Determining the kind and type of ownership of your assets and the nature of your liabilities will be necessary in assessing the present condition of your estate and in determining whether any further planning is necessary.

II. Why do Estate Planning? (Use TM-3).

By properly planning your estate, you guarantee that your wishes will be observed. Estate planning is the creation, conservation and transferring of possessions. Generally estate planning should be done for the following reasons.

1. For Yourself--To protect and conserve financial resources. When evaluating the condition of your estate from your Financial Planning Fact Sheet, a valid question is whether your estate is

being properly protected and conserved to provide for you in your lifetime.

2. For Your Heirs and Others--Has your estate been properly planned to provide for others who are dependent upon you financially? This would take into consideration minor children, dependent parents or other relatives, handicapped and/or incompetent persons who would need to have guardians, custodians, trustees, etc. to handle financial matters and to make decisions that they would be incapable of making. Many young couples may need a will and careful estate planning in order to make provision of minor children.

If there are no minor children, incompetent or handicapped persons who need provision, there are still probably certain heirs, friends, institutions or charitable organizations that you would like to have enjoy the benefits of that part of your estate that you have left when you die.

Estate planning to meet this criterion should be done from the standpoint of "What would happen to my estate if I were to die today? How and to whom would my assets be transferred?"

3. Reduce Estate Costs--Distributing an estate satisfactorily, in most cases, will involve some financial cost because the knowledge, time, and effort of one or more persons is likely to be involved in distributing your possessions. It is important that an estate be planned to accomplish the first two objectives with a minimum of cost. However, reducing cost is not the first priority, for in doing that, the other objectives may not be accomplished. For example, as a result of the Economics Tax Recovery Act of 1981, all Federal Estate Taxes could be avoided if a surviving spouse were to immediately

remarry and leave the entire estate to the next surviving spouse. It is doubtful if this technique would meet the other objectives, however.

III. The Tools of Estate Planning (Use TM-4 and TM-5).

The most common tools used in estate planning are: (TM-4)

1. Letters of Last Instructions
2. Wills
3. Gifts
4. Trusts

The Letter of Last Instructions (See AS-2) is a simple, non-binding document that should be executed by everyone. Its purpose is to simplify immediate decisions that survivors may have to make (funeral arrangements), and to provide a record of other information that may be needed in order to notify necessary persons, locate assets, liabilities, and important documents. By using AS-2, any individual can prepare a Letter of Last Instructions without employing a legal adviser. The Letter of Last Instructions is not a legal instrument, but a compilation of information that the deceased should leave for other persons.

IV. In addition to wills, gifts and trusts, some other tools that are used in estate planning are: (TM-5)

5. Life Insurance
6. Sale of Property
7. Annuities
8. Incorporation

Before any of these tools can be employed, the estate planner has to work within a legal framework of state and federal legislation that will place restrictions on the use and validity of each of these tools. For that reason, the next three lessons will examine the Missouri Probate Code-Missouri Laws of Descent, Property Ownership in Missouri and Federal and State Estate Taxes.

YOUR PERSONAL NET WORTH (FINANCIAL) STATEMENT

ASSETS (What You Own)

Cash (Actual value)	
On hand	_____
Checking accounts	_____
Savings accounts	_____
Personal Property (Estimated Values)	
Furniture and Appliances	_____
Clothes and Jewelry	_____
Collections (stamps, coins, guns, jewelry, antiques, etc.)	_____
Automobile(s)	_____
Recreational vehicles	_____
Others	_____
Home	
Current Market Value	_____
Other Real Estate	
Current Market Value	_____
Long-Term Assets	
Stocks	_____
Bonds	_____
Royalties	_____
Business equity	_____
Cash Value of Life Insurance	_____
Cash Value of Retirement Plans	_____
Money Due You (Money Loaned to Others)	
Notes	_____
Mortgages	_____
TOTAL ASSETS	_____

LIABILITIES (What You Owe Others)

Current Bills
- Rent, utilities _____
- Medical, dental _____
- Charge accounts _____
- Other _____

Personal Property
- Furniture and appliances _____
- Clothes and jewelry _____
- Collections _____
- Automobile(s) _____
- Recreational vehicles _____
- Other _____

Home - Amount still owed on mortgage _____

Other Real Estate - Amount still owed _____

Long Term Debts
- Home Improvement loans _____
- Educational loans _____
- Unpaid taxes _____
- Debts to individuals _____
- Alimony, child support _____
- Other _____

Life Insurance or Pension Plans
- Amount borrowed _____

TOTAL LIABILITIES _____

TOTAL ASSETS (What You Own) $_____
LESS: TOTAL LIABILITIES (What You Owe Others) - _____

TOTAL NET WORTH $_____

FACT SHEET

FOR

FINANCIAL PLANNING

RELATIONSHIP	NAME	AGE	ADDRESS
Spouse			
Sons			
Daughters			

OTHER LIVING RELATIVES YOU MAY WISH TO NAME AS BENEFICIARIES:

Grandchildren			
Parents			

FACT SHEET

FOR

FINANCIAL PLANNING (CONTINUED)

RELATIONSHIP NAME AGE ADDRESS

Brothers and Sisters and other dependents

_____ _____ _____

_____

_____ _____ _____

_____

_____ _____ _____

_____

GROUPS--CHARITIES, ETC.--YOU MAY WISH TO NAME AS BENEFICIARIES:

_____ _____

_____

_____ _____

_____

_____ _____

_____

Attorney _____ _____

Insurance Counsellor _____ _____

Tax Advisor _____ _____

Date _____

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FINANCIAL PLANNING WORKFORM

ASSETS

CASH		OWNER (INDIV. OR JOINT)
Savings Accounts	$_____	_____
	$_____	_____
Cash (Checking Account, etc.)	$_____	_____

MAJOR PERSONAL PROPERTY		
Works of art/ Jewelry	$_____	_____
Furniture	$_____	_____
Automobiles	$_____	_____
Personal Effects	$_____	_____

REAL ESTATE	MARKET VALUE	MORTGAGE	EQUITY	OWNER (INDIV. OR JOINT)
Residence	$_____	$_____	$_____	_____
Business Property	$_____	$_____	$_____	_____
Summer Cottage/ Farm	$_____	$_____	$_____	_____
Rental	$_____	$_____	$_____	_____

TOTAL EQUITY $_____

INVESTMENTS	MARKET VALUE	LOANS	NET VALUE	OWNER (INDIV. OR JOINT)
Stocks	$_____	$_____	$_____	_____
Mutual Funds	$_____	$_____	$_____	_____
Bonds	$_____	$_____	$_____	_____
U. S. Bonds	$_____	$_____	$_____	_____
Mortgages	$_____	$_____	$_____	_____
Loans	$_____	$_____	$_____	_____

TOTAL $_____

FINANCIAL PLANNING WORKFORM

ASSETS (CONTINUED)

BUSINESS INTERESTS

Close Corporation	Total Market Value	Percentage of Interest	Value of Interest
_____	_____	_____	_____
Partnership			
_____	_____	_____	_____
Proprietorship			
_____	_____	_____	_____

TOTAL $_____

LIFE INSURANCE AND EMPLOYEE BENEFITS	Market Value	Beneficiary	Owner
Group Insurance	$_____	_____	_____
Personal Insurance	$_____	_____	_____
Fraternal Assoc. Insurance	$_____	_____	_____
Profit Sharing	$_____	_____	_____
Pension Benefits	$_____	_____	_____
Stock Options	$_____	_____	_____

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FINANCIAL PLANNING WORKFORM

OTHER ASSETS

STOCKS

Name	No. of shares	Approximate Market Value	Cost Basis

MUTUAL FUNDS

Name	No. of shares	Approximate Market Value	Cost Basis

BONDS

Name	Face Value	Approximate Market Value	Cost Basis

LIFE INSURANCE

Company	Type	Policy Number

FINANCIAL PLANNING WORKFORM

LIABILITIES
(Not Listed Previously)

1. ACCOUNTS PAYABLE	BALANCE DUE	DUE DATE

2. NOTES PAYABLE	FACE VALUE	DATE	BALANCE DUE	DUE DATE

3. INSTALLMENT DEBTS	FACE VALUE	DATE	BALANCE DUE	DUE DATE

4. CONDITIONAL BILLS OF SALE	CONDITION

5. OBLIGATIONS UNDER CONTRACT

THE LETTER OF LAST INSTRUCTIONS

1. A statement of where the will, if any, may be found.

2. Funeral instructions, if that is necessary. Some people would wish to be cremated; others, buried. Some might wish to donate certain organs (e.g., eyes) to others after death. In any case all members of the family should have general knowledge in advance of future funeral arrangements.

3. A statement regarding a safe deposit box--where it and the key are located.

4. A list of all life insurance policies and their location.

5. An inventory of all stock and bonds, and where they are kept.

6. A list of all other property such as real estate, mutual funds, and business property, and their location.

7. The person's social security number should be recorded.

8. A statement indicating what benefits the deceased may have from his or her employer. There may be pension benefits, death benefits, profit-sharing plans, and other benefits to which the deceased's estate or survivors may have a claim.

9. A listing of all deposits, in banks, savings and loan associations, mutual savings banks, or credit unions.

10. A list of memberships in all unions, professional associations, lodges and fraternal organizations, and veterans groups. There may be financial benefits because of memberships in some of these organizations.

11. A list of all just debts and accounts receivable, the interest rate which they bear, the terms of their payment, and where to locate the documents to prove their validity.

12. A list of all the just debts owed by the individual, the interest rate they bear, the terms of their repayment, and the location of the pertinent documents.

A LETTER OF LAST INSTRUCTIONS

PREPARED BY:

_____(NAME)

_____(DATE)

1. My will is located:

2. Funeral Instructions (if desired). Be sure family members have advance knowledge of this.

3. Obituary Information--Birthdate, place, parents, etc.

4. Persons to be notified in the event of my death:

NAME	ADDRESS	PHONE NUMBER

A LETTER OF LAST INSTRUCTIONS
(CONTINUED)

5. Safety deposit box--location and key.

6. My social security number is:_____

7. Memberships in unions, professional associations, lodges, fraternal organizations, and veterans groups.

8. Include a completed copy of the Financial Planning Fact Sheet, which includes a list of all assets and liabilities.

ESTATE

THE SUM TOTAL OF ALL YOU OWN OR HAVE A FINANCIAL INTEREST IN, OVER AND ABOVE THE DEBTS YOU OWE.

TM-1

YOUR PERSONAL NET WORTH (FINANCIAL) STATEMENT

ASSETS (What You Own)

Cash (Actual value)
- On hand _____
- Checking accounts _____
- Savings accounts _____

Personal Property (Estimated Values)
- Furniture and Appliances _____
- Clothes and Jewelry _____
- Collections (stamps, coins, guns, jewelry, antiques, etc.) _____
- Automobile(s) _____
- Recreational vehicles _____
- Others _____

Home
- Current Market Value _____

Other Real Estate
- Current Market Value _____

Long-Term Assets
- Stocks _____
- Bonds _____
- Royalties _____
- Business equity _____
- Cash Value of Life Insurance _____
- Cash Value of Retirement Plans _____

Money Due You (Money Loaned to Others)
- Notes _____
- Mortgages _____

TOTAL ASSETS _____

LIABILITIES (What You Owe Others)

Current Bills
- Rent, utilities _____
- Medical, dental _____
- Charge accounts _____
- Other _____

Personal Property
- Furniture and appliances _____
- Clothes and jewelry _____
- Collections _____
- Automobile(s) _____
- Recreational vehicles _____
- Other _____

Home - Amount still owed on mortgage _____

Other Real Estate - Amount still owed _____

Long Term Debts
- Home Improvement loans _____
- Educational loans _____
- Unpaid taxes _____
- Debts to individuals _____
- Alimony, child support _____
- Other _____

Life Insurance or Pension Plans
- Amount borrowed _____

TOTAL LIABILITIES _____

TOTAL ASSETS (What You Own) $_____
LESS: TOTAL LIABILITIES (What You Owe Others) - _____

TOTAL NET WORTH $_____

ESTATE PLANNING

WHY?

1. FOR YOURSELF--To protect and conserve financial resources

2. FOR HEIRS AND OTHERS--To work out the transfer of property or money, both before and after death, to recipients the owner desires

3. REDUCE ESTATE COSTS--To minimize the tax load, charges, and court costs for the owner and his beneficiaries.

TOOLS OF ESTATE PLANNING

1. Letters of Last Instructions
2. Wills
3. Gifts
4. Trusts

(Cont'd.)

TOOLS OF ESTATE PLANNING
(Continued)

5. Life Insurance
6. Sales of Property
7. Annuities
8. Corporations

ESTATE PLANNING

LESSON: The Missouri Probate Code and Missouri Laws of Descent

CONCEPTS:

1. Probate is the process of distributing a deceased person's property according to the Probate Code in the State of Missouri. The legal institution that may supervise this is the Probate Division of the Circuit Court.

2. Missouri laws on descent and distribution determine how a deceased person's property will be distributed if there is no will.

3. Property owned in joint tenancy or by tenancy of the entirety is not subject to Missouri laws of descent and distribution.

4. Most estates will involve some administration costs, depending upon the size of the estate and the way property is owned.

5. The new Probate Code in Missouri provides for little or no supervision of the Probate Court in administering of estates in some cases.

SUGGESTED ACTIVITIES:

1. Write: The Missouri Bar
   P. O. Box 119
   Jefferson City, MO 65102
   and request needed quantities (free of charge) of the following pamphlets:
   Legal Facts About Joint Tenancy
   Legal Facts About Probate
   Legal Facts About Missouri's New Probate Code

2. Prepare copies of HO-1: Distribution of Property Without a Will for class distribution.

3. Use transparency masters and information outline to present lesson information.

4. Generate discussion with questions:
   a. What property do you own in your own name? (sole ownership or tenant-in-common.)
   b. Do you have a will? If answer is NO, then:
   c. Would the state distribute your property satisfactorily?

INSTRUCTIONAL MATERIALS:

1. HO-1: Distribution of Property Without a Will
2. Transparency Masters

   TM-1: Distribution of Property--Missouri Laws on Descent

   TM-2: Distribution of Property--Part 2

   TM-3: Rights of Surviving Spouse

   TM-4: Spouses Right to "Elect Against the Will"

   TM-5: Cost of Administration

   TM-6: Schedule of Fees

   TM-7: Independent Administration

REFERENCES:

1. Estate Planning for Missouri Families, University of Missouri-Columbia Extension Division, Manual 68, February, 1982.
2. Missouri Bar Association, Legal Facts About Missouri's New Probate Code.
3. Missouri Bar Association, Legal Facts About Probate.
4. Missouri Bar Association, Legal Facts About Joint Tenancy.
5. Revised Statutes of the State of Missouri, Supplement 1982, Chapters 472, 473, 474.

TEST QUESTIONS

Probate Code and Missouri Laws of Descent

MULTIPLE CHOICE:

1. Ensuring the orderly transfer of property from a person who has died to his or her heirs is the function of
   a. an executor
   b. probate
   c. joint ownership
   d. a letter of last instructions

2. Which of the following refers to the legal court proceeding in which the validity of a will is established?
   a. bequest
   b. codicil
   c. probate
   d. testimonium

3. If an individual dies intestate
   a. the estate's property will be divided according to state law
   b. life insurance proceeds will be divided along with the other estate assets
   c. a surviving spouse would always be the sole heir
   d. a surviving spouse would always receive the majority of the estate's assets with a small stipend paid to any surviving children

4. The person who manages and settles an estate is the
   a. beneficiary
   b. trustee
   c. Personal Representative
   d. guardian

5. If a spouse elects against the will, the amount they will take will be
   a. one-half and all household goods
   b. one-third
   c. all household goods, an allowance for a year's support, $20,000, and one-third of the remaining property.

TRUE-FALSE:

T F 1. The probate process validates a will and supervises the distribution of an estate's assets.

T F 2. In Missouri a surviving spouse who is not left the share of the estate provided by law may elect against the will.

T F 3. It is possible for a person to dispose of his estate before death so that there is no will to probate or an estate to administer.

T F 4. If a married person dies without a will, the spouse will inherit all the deceased's property.

T F 5. In Missouri, the amount of fees that executors, administrators and attorneys can charge is fixed by law and can be exceeded only upon an order of the court.

Probate Code and Missouri Laws of Descent

Answer Sheet

Multiple Choice:

1. b
2. c
3. a
4. c
5. c

True-False:

1. T
2. T
3. T
4. F
5. T

ESTATE PLANNING

THE MISSOURI PROBATE CODE AND MISSOURI LAWS OF DESCENT

INFORMATION SHEET

I. What is "Probate"?

When people talk about "probate" they are usually referring to the Probate Division of the Circuit Court. This is a part of our judicial system in the State of Missouri, and this special division has a specific purpose. They may also be referring to the process of distributing a deceased person's property. The validity and effect of a will and the distribution of Missouri property not disposed of by wills are determined by the Probate Division of the Circuit Court.

There are several reasons for the Probate Division of the Circuit Court. They are:

1. The probate court serves to protect the rights of the heirs and to assure the orderly transfer of the property in accordance with the wishes of the deceased. If there is a will, that will must be filed with the Probate Court. The court will determine the validity of the will and administer the estate accordingly. If there is no will, then the court will have to administer property not owned in joint tenancy or tenancy of the entirety according to the Missouri laws of descent. If an individual disposed of all property prior to death, either by gift or by establishing joint types of ownership with rights of survivorship, such as joint tenancy or tenancy of the entirety, then there will probably be no need to probate the will or administer the estate.

If a person died without a will, the Missouri laws on the descent and distribution of property would provide for the distribution of that property as follows: (Use TM-1, TM-2 and HO-1)

When survivors are a spouse and children: All household goods, an allowance for a year's support, $20,000, and half of the remaining property goes to the surviving spouse and what is left is distributed to the children in equal shares. Grandchildren take a deceased parent's share.

When survivors are children and there is no surviving spouse: All real and personal property goes to the children, or their descendants, in equal shares.

When there are no surviving children or their descendants: All household goods, an allowance for a year's support, $20,000, and half of the remaining property goes to the surviving spouse, and what is left is distributed to the father and mother, brothers and sisters, or their descendants, in equal shares.

When the sole survivor is a spouse (no children or parents): All real and personal property goes to the surviving spouse.

When sole survivors are parents, siblings or other relatives: If a person is single with no children or descendants surviving, the parents share equally with any brothers or sisters of the deceased, or their descendants. If the deceased had no brothers or sisters, all real and personal property goes to parents, sharing equally, a surviving parent taking all. If parents are deceased, all real and personal property goes to brothers and sisters, sharing equally, with children of deceased brothers and sisters taking their share. If there are no surviving parents or siblings or their descendants, then all real and personal property goes to the grandparents, aunts, uncles, and their descendants.

When there are no known surviving relatives: The whole estate passes to the kindred of the widow or widower of the decedent, as though the spouse had survived the decedent and then died entitled to the property.

When no person is entitled to inherit: The property passes by escheat to the state.

2. The Probate Court also serves to protect the rights of the deceased's creditors. Any debts owned at the time of death must be paid out of the estate before the heirs and beneficiaries can share in the remaining property. At the same time the estate

is allowed to collect any debts that were owed to the decedent at the time of death.

3. The probate court has the function of ensuring the collection of any taxes which might be due from the estate. The administration of the estate may not be closed until all Missouri and Federal Estate Taxes have been paid.

4. The Probate Court has the responsibility to protect the rights of the surviving spouse, or at least make the spouse aware of those rights. In the State of Missouri, the surviving spouse is entitled to receive: (TM-3 and TM-4)

1. "certain exempt property" - books, clothing, household appliances, furniture, one automobile and the like.
2. The "support allowance" - An award made to the surviving spouse for his or her maintenance and that of the unmarried minor children for a period of one year after the deceased's death. The amount of the award is judged by the family's previous standard of living.
3. $20,000 plus one-half of the rest of the estate if the deceased spouse had surviving children or parents.

A spouse cannot be completely disinherited, even if there is a will, unless some form of contractual arrangement has been made before death. A spouse is entitled to receive as his or her minimum share either one-half of the estate if there are no surviving children, or one-third of the estate if there are surviving children. If the will does not provide the spouse with the minimum amounts, then the surviving spouse may "elect against the will" and thus receive the statutory share described above instead of the provision made for him or her in the will. (Note: If there is no will, a surviving widow gets 50% and children get 50%. However, if the surviving spouse elects against the will and there are surviving children, then the minimum amount for the spouse is one-third.)

5. The Probate Division of the Circuit Court also serves to establish clear title to any real estate which the deceased may have owned at the time of death. Real property does not technically form a part of the probate estate unless it becomes necessary to sell it for some reason in order to distribute or settle the estate. Real property descends directly to one's heirs, but if there is no administration it may be impossible for the heirs to sell the property for three years after the decedent's death. A will can alter the ownership of the property, and because a will may be probated anytime within three years after the death of the testator, property could not be sold unless the estate had been administered by the Probate Court. If the estate is administered, the period of time in which the title to the property can be affected is only six months and ten days.

II. Costs of Estate Administration

There will be certain expenses incurred in the administration of any estate, through the Probate Division of the Circuit Court. There will be four kinds of expenses in most estates.

1. Executors', Administrators' and Attorney's Fees: (TM-5) The laws provide for a minimum fee schedule which is followed in most estates, and which in the majority of cases is adequate. The scheduled fees are based upon a percentage of the amount of money distributed in the estate. Real property value is not included in this amount, unless the property was sold in the administration of the estate. This schedule governs the fees of executors, administrators (Personal Representatives) and Attorneys. If one individual serves two roles (executor and attorney)

he can collect only one fee. The schedule of fees is as follows:

First	$ 5,000	5%
Next	20,000	4%
Next	75,000	3%
Next	300,000	2 3/4%
Next	600,000	2 1/2%
Next	1,000,000	2%

Compensation in excess of this scheduled fee can be received only upon an order of the court. Special provisions are made for situations in which an estate has more than one executor.

2. Unless specifically waived in the will, or by the court, each personal representative (executor or administrator) is required to provide the court with an indemnity bond to guarantee the faithful performance of duties. The cost of such a bond is paid out of the assets of the estate and varies with the amount of money to be administered.

3. Court Costs: A share of the expenses the court incurs on the behalf of the administration of the estate must be paid out of the estate. The amount will vary with the size and complexity of the estate involved.

4. Costs of Publication: Notices that an estate is being opened and notices that an estate is being closed must be published in the newspaper. These costs vary, but will be paid out of the estate.

III. Independent Administration (Use TM-6 and TM-7).

The Revised Probate Code in 1980 introduced a new concept called independent administration. This procedure simplifies probate administration in certain situations and may result in savings in expenses of administration. You should consult your attorney to determine if independent administration would be appropriate to your situation. If you desire independent admin-

istration, you can so specify in your will and your estate can be administered by your Personal Representative without the supervision of the Probate Court.

If independent administration has not been specified in the will of the deceased, independent administration can be obtained if all heirs agree and sign a consent form to administer the estate in this fashion.

IV. Non-administration of Small Estates (TM-7).

"Letters of Refusal to Administer" can be granted by the Probate Court in some other instances, so that an estate does not go through Probate.

A spouse may be granted "refusal" if there is nothing left of the estate after the year's support, exempt property, and $20,000.

An "Affidavit of Distributees" may be granted to surviving children if there is no surviving spouse. After 30 days the surviving children may claim the estate and assume the responsibility of any debts of the deceased.

DISTRIBUTION OF PROPERTY WITHOUT A WILL

(Missouri Laws of Descent)

In a general way, the following are a few of the provisions of the Missouri laws on the descent and distribution of property held by a person in his own name when that person dies without leaving a valid will.

Status of Deceased	Property Goes To
1. Married, with children	Surviving Spouse: All household goods, an allowance for a year's support, $20,000 and half of the remaining property. Surviving Children: Share equally in the remaining 50%. Grandchildren take a deceased parent's share.
2. Children, No Spouse	Children or descendants get all Property in equal shares.
3. Married, No Children	Surviving Spouse: All household goods, an allowance for a year's support, $20,000 and half of the remaining property. Parents, siblings or their descendants receive equal parts of the remaining 50%.
4. Married, No Children, No Parents	Spouse receives all property
5. Single, No children or descendants	Parents, siblings share equally. If parents are deceased, siblings share equally.
6. No known surviving relatives or spouse	Kindred of spouse
7. No person entitled to estate	Passes by escheat to the state

When survivors are a spouse and children: All household goods, an allowance for a year's support, $20,000, and half of the remaining property goes to the surviving spouse and what is left is distributed to the children in equal shares. Grandchildren take a deceased parent's share.

When survivors are children and there is no surviving spouse: All real and personal property goes to the children, or their descendants, in equal shares.

When there are no surviving children or their descendants: All household goods, an allowance for a year's support, $20,000 and half of the remaining property goes to the surviving spouse, and what is left is distributed to the father and mother, brothers and sisters, or their descendants, in equal shares.

When the sole survivor is a spouse (no children or parents): All real and personal property goes to the surviving spouse.

When sole survivors are parents, siblings or other relatives: If a person is single with no children or descendants surviving, the parents share equally with any brothers and sisters of the deceased, or their descendants. If the deceased had no brothers or sisters, all real and personal property goes to parents, sharing equally, a surviving parent taking all. If parents are deceased, all real and personal property goes to brothers and sisters, sharing equally, with children of deceased brothers and sisters taking their share. If there are no surviving parents or siblings or their descendants, then all real and personal property goes to the grandparents, aunts, uncles, and their descendants.

When there are no known surviving relatives: The whole estate passes to the kindred of the widow or widower of the decedent, as though the spouse had survived the decedent and then died entitled to the property.

When no person is entitled to inherit: The property passes by escheat to the state.

DISTRIBUTION OF PROPERTY WITHOUT A WILL

(Missouri Laws of Descent)

Status of Deceased	Property Goes To
1. Married, with children	Surviving Spouse: All household goods, and allowand for a year's support, $20,000 and half of the remaining property. Surviving Children: Share equally in the remaining 50%. Grandchildren take a deceased parent's share.
2. Children, No Spouse	Children or descendants get all property in equal shares.
3. Children, No Spouse	Surviving Spouse: All household goods, an allowance for a year's support, $20,000 and half of the remaining property. Parents, siblings or their descendants receive equal part of the remaining 50%.

NOTE: Applies only to property owned in sole ownership or as a tenant-in-common.

(Cont'd.)

DISTRIBUTION OF PROPERTY WITHOUT A WILL

(Missouri Laws of Descent)
(continued)

Status of Deceased	Property to
4. Married, No Children, No Parents.	Spouse, 100%
5. Single, No Children or descendants.	Parents, siblings share equally. If parents are deceased, siblings share equally.
6. No known surviving relatives or spouse.	Kindred of spouse.
7. No person entitled to estate.	Passes by escheat to the state.

NOTE: Applies only to property owned in sole ownership or as a tenant-in-common.

RIGHTS OF A SURVIVING SPOUSE

(When deceased spouse has died intestate?

I. "Certain exempt property" - books, clothing, household appliances, furniture, one automobile, etc.

II. The "support allowance" - An award made to the surviving spouse for his or her maintenance and that of the unmarried minor children for a period of one year after deceased's death. The amount of the award is judged by the family's previous standard of living.

III. $20,000 plus one-half of the rest of the estate if the deceased spouse had surviving children or parents.

RIGHTS OF A SURVIVING SPOUSE
WHEN DECEASED SPOUSE DIED TESTATE

I. "Certain exempt property" - books, clothing, household appliances, furniture, one automobile, etc.

II. The "support allowance" - An award made to the surviving spouse for his or her maintenance and that of the unmarried minor children for a period of one year after deceased's death. The amount of the award is judged by the family's previous standard of living.

(Cont'd.)

TM-4

RIGHTS OF A SURVIVING SPOUSE
WHEN DECEASED SPOUSE DIED TESTATE
(Continued)

III. $20,000

- Plus one-half of the rest of the estate if there were no surviving children.
- Plus one-third of the rest of the estate if there were surviving children.

If a will does not provide these minimum amounts for a spouse, then the surviving spouse may "elect" against the will and take that minimum amount provided by law, unless some form of contractual arrangement has been made before death.

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PROBATE ADMINISTRATION FEE RATES SET BY MISSOURI STATUTE FOR EXECUTORS, ADMINISTRATORS AND ATTORNEYS

FIRST	$ 5,000	5	%
NEXT	20,000	4	%
NEXT	75,000	3	%
NEXT	300,000	2¾	%
NEXT	600,000	2½	%
ALL OVER	1,000,000	2	%

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TM-5

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INDEPENDENT ADMINISTRATION

- Permission to administer the estate without the supervision of the Probate Court.
- Can be specified in the Will.
- Can be obtained if all heirs agree

"LETTERS OF REFUSAL TO ADMINISTER"

Can be granted by the Probate Court in very small estates.

ESTATE PLANNING

LESSON: Property Ownership

CONCEPTS:

1. In addition to sole ownership, Missouri recognizes three forms of joint ownership.

2. The type of ownership will determine how property can be transferred.

3. Property owned in sole ownership or as tenants-in-common will be transferred according to the Missouri Laws of Descent if the deceased dies without a will.

4. Provisions of a will can be totally worthless if ownership of property is inconsistent with the will.

5. The way property is owned may have estate tax implications.

SUGGESTED ACTIVITIES:

1. Have duplicated copies of HO-1: Property Ownership available for handouts.

2. Use transparency masters and the information outline to present the lesson.

3. Ask participants to recall or check:

   Automobile titles
   Checking accounts
   Deed to their home and other real estate
   Ownership of stocks, bonds, saving certificates

   for type of ownership and implications.

INSTRUCTIONAL MATERIALS:

1. HO-1: Property Ownership

2. Transparency Masters

   TM-1: Property Ownership

   TM-2: Sole Ownership

   TM-3: Sole Ownership--Transfer

TM-4: Co-ownership

TM-5: Tenancy by Entirety--Conditions

TM-6: Tenancy by Entirety--Transfer

TM-7: Tenancy by Entirety--Tax Implications

TM-8: Joint Tenancy--Conditions

TM-9: Joint Tenancy--Transfer

TM-10: Joint Tenancy--Tax Implications

TM-11: Tenants-in-Common--Conditions

TM-12: Tenants-in-Common--Transfer

TM-13: Tenants-in-Common--Tax Implications

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1. Brosterman, Robert. The Complete Estate Planning Guide. (1982 Revision) New American Library, New York: 1982.

2. Estate Planning for Missouri Families. Manual 68, University of Missouri-Columbia Extension Division, Columbia, Missouri, February, 1982.

3. Rosefsky, Robert S. Personal Finance, Second Edition. New York: John Wiley and Sons, Inc. 1983.

4. Hodgetts, Richard M. Personal Financial Management. Mass: Addison-Wesley Publishing Company, 1983.

5. Weirich, Jean Luttrell. Personal Financial Management. Boston: Little, Brown and Company, 1983.

TEST QUESTIONS

Property Ownership

MULTIPLE CHOICE:

1. Sara and her daughter Phyllis have opened a joint checking account with rights of survivorship. Under this agreement:
   a. if Sara should die, her will would direct the money to Phyllis
   b. Sara can will her half of the money to her son, John
   c. Phyllis can take out any or all of the money as she needs it or wants it
   d. there will be less gift or estate tax for Phyllis to pay

2. John, Randol and Bob have pooled their funds to buy a cottage. They agree to invest equally in the cottage and to share equally the time that can be spent using the property. If any one of the three investors dies, his or her share can be willed to anyone of his or her choice. This form of property ownership is:
   a. joint ownership with right to survivorship
   b. sole ownership
   c. tenancy-in-common
   d. tenancy in the entirety

3. Tenants-in-common is when two people own property:
   a. and can sell the property without permission of the other owner. If one owner dies, the survivor becomes the sole owner.
   b. as husband and wife, and the property acquired during the marriage belongs to them equally
   c. and can dispose of the property without permission of the other owner. If one dies, the share is passed to the beneficiary.
   d. as husband and wife, and the property cannot be sold or transferred without the consent of the spouse. If one spouse dies, the other becomes sole owner.

4. Property ownership by sole ownership and tenants-in-common
   a. provide less flexibility in estate planning than joint tenancy or tenancy by the entirety
   b. can be transferred in a will
   c. cannot be affected by a will
   d. will not be affected by Missouri laws on descent and distribution if you die without a will

5. Property ownership in joint ownership or by tenancy by the entirety
   a. is sometimes used as a substitute for a will
   b. provides flexibility in planning large estates
   c. is better than a will and other types of ownership because that property avoids probate

TRUE-FALSE

T F 1. Property held jointly with the right of survivorship by two people who are not married is fully taxed in the estate of the first owner to die unless the surviving owners can prove that he or she contributed toward the purchase of the property or owned it before the joint tenancy was created.

T F 2. No matter whether the property is owned jointly with the right of survivorship or as sole property of the decedent, any property that passes to a surviving spouse will pass estate-tax free. However, when the surviving spouse dies, all of the property may be fully taxed in the second estate.

T F 3. Sue and Tom own an apartment house as joint tenants with rights of survivorship. She can make a will leaving her part to her daughter.

T F 4. Helen has $25,000 in time deposit savings certificates at the bank. She has had the bank put her son's name on the certificates as a joint tenant with rights of survivorship. At her death her daughter will share in one-half of this amount because her will stipulates an equal division of her property between her son and daughter.

T F 5. The way property is owned has nothing to do with the way it is taxed for federal estate taxes.

Property Ownership

Answer Sheet

Multiple Choice:

1. c
2. c
3. c
4. b
5. a

True-False:

1. T
2. T
3. F
4. F
5. F

ESTATE PLANNING

PROPERTY OWNERSHIP

INFORMATION OUTLINE

The method or type of ownership of property will affect the distribution of various kinds of property. It may also have implications relative to Federal Estate Tax laws. In an earlier discussion of the Missouri laws on descent and distribution of property, it will be noted that those provisions were applicable only to property held in sole ownership or as a tenant-in-common. The best way for a family or an individual to own property depends upon many factors. It is for this reason that property ownership here will be examined from the standpoint of (1) conditions of ownership, (2) transfer provisions and (3) Federal Estate Tax Implications. (TM-1)

I. Sole Ownership (Use TM-2, TM-3)

If a person owns real or personal property in only his name, that property will become a part of his estate at the time of his death. Such ownership of real estate is described legally as "fee simple" or "fee simple absolute".

All property owned in sole ownership can be sold, gifted, put into a trust, or willed by the owner. If the owner dies intestate without having made any provisions for the transfer of this property, then the Probate Division of the Circuit Court will distribute it according to the Missouri laws of descent.

Generally, this property will go through the Probate Court as the will is probated, or as the estate is administered. The value of this property will be included in the estate for Federal Estate Tax computation purposes.

II. Co-Ownership (Use TM-4).

When property is owned by more than one person, the determination of whether his share will become a part of his estate is governed by the kind of ownership that exists. In the State of Missouri there are three ways that co-ownership of property can be effected.

1. Tenancy by Entirety. (TM-5, TM-6 and TM-7) This type of ownership is possible only when the co-owners are married to each other. Both real and personal property can be owned in this manner. It carries the "rights of survivorship" which means that when one co-owner dies, the other owns the property outright. When both tenantries by the entirety are alive, both must join in any conveyance of the property and a creditor of one cannot reach it.

The conditions of ownership, then places restrictions on the way the property may be transferred. It cannot be willed individually. One owner cannot will his or her part independent of the other. It will not be affected by Missouri laws of descent and transfer because it carries the right of survivorship. It does not go through probate, nor becomes a part of the estate of the deceased. Under the new provisions of the 1981 Economic Tax Recovery Act, the surviving spouse would inherit this property free of any Federal Gift or Estate Tax.

2. Joint Tenancy. (TM-8, TM-9 and TM-10) This type of ownership can exist between any two or more persons. A Joint Tenancy can be created in almost any type of property, and it provides "rights of survivorship" just as the Tenancy by the

Entirety does. When a deed or a conveyance of property to two persons desiring a Joint Tenancy is made, it must expressly state an intention to create a Joint Tenancy by noting that the property will be held not as Tenants-in-Common but as Joint Tenancy with Rights of Survivorship. Often, the simple letters "JTWRS" are used to designate a Joint Tenancy.

A Joint Tenancy ownership, in many instances, allows anyone of the owners to dispose of, cash, or withdraw, even without the consent of the others. One joint tenant of real estate can force partition of that property in one of several ways if they so desire. Some special cases of ownership in joint tenancy may require the signature of both, (stock certificates, for example). Because Joint Tenancy carries Rights of Survivorship, each individual's part cannot be willed separately. This property will not go through probate because it does not become a part of the deceased's estate, but passes directly to the survivor.

A surviving spouse would inherit this property free of any Federal Estate and Gift Tax if they were the joint tenant. Where the joint tenant is not a spouse, only the deceased person's share would be included in the estate for Federal Gift and Estate Tax purposes.

3. Tenants-in-Common. (TM-11, 12, and 13) This type of ownership can be used for both real and personal property. Each owner retains ownership of a specified portion. There are no Rights of Survivorship. Each tenant can sell his or her share at any time. Each owner can will his or her share at any time. A deceased owner's share can be transferred by the state in absence of a will through the Missouri laws of descent and distribution.

Each tenant's share will become a part of his estate at his or her death and will generally go through probate. Each deceased owner's share will be included in his or her estate for the purpose of computing Federal Gift and Estate Taxes.

Each type of ownership offers various advantages and disadvantages. Many persons have viewed joint tenancy and tenancy by the entirety as methods of ownership that eliminate the need for a will and also as a way to avoid probate and Federal Gift and Estate Taxes. While these objectives may be accomplished with these types of ownership, they do not allow for the flexibility in estate planning that may be needed in very large estates that can be obtained with sole ownership and tenants-in-common. There are also disadvantages of the "rights of survivorship" that should be considered in many family situations. Joint Ownership does not provide for your children if the joint ownership is between husband and wife. Joint ownership may be useful as a legal device in addition to a will. It should only be adopted after consultation with your lawyer and not used indiscriminately. There can be worse consequences than having the property to through probate.

PROPERTY OWNERSHIP

I. Sole Ownership

A. Conditions of Ownership

1. One owner (One name on a title or owner in fee simple in real estate deeds).

B. Transfer by:

1. Selling
2. Giving
3. Putting in a Trust
4. Willing
5. State will disperse of property at death according to the Missouri Laws of Descent, if there is no will.

C. Tax Implications

1. Will go through probate, with or without a will
2. All property owned in sole ownership will be computed as part of the estate for estate tax purposes at the death of the owner, unless willed to a spouse. Any amount may be willed or gifted to a spouse - estate tax free.
3. No estate tax due in 1983 if net taxable estate is $275,000 or less. This amount will increase up to $600,000 by 1987.

II. Co-ownership - When property is owned by more than one person. In the State of Missouri there are three ways that co-ownership of property can be effected.

1. Tenancy by Entirety
   - A. Conditions of Ownership
     1. Applies only to husband and wife
     2. Applies to both real and personal property
     3. Provides right of survivorship
     4. Cannot be sold or transferred without agreement by both
     5. A creditor of one owner cannot reach it
   - B. Transfer of
     1. Requires consent of both to sell or give or put in a trust
     2. Cannot be willed
     3. Will not be transferred by state; survivor retains ownership
     4. Does not go through probate
   - C. Tax Implications
     1. Surviving spouse inherits full amount, estate tax free
2. Joint Tenancy
   - A. Conditions of ownership
     1. Two or more owners--Do not have to be spouses
     2. Need not be real estate, but applies also to bank accounts, stocks, bonds, mutual funds, etc.
     3. Provides right of survivorship

B. Transfer of

1. Anyone of owners can dispose of, or cash, or withdraw, even without consent of other
2. Cannot be willed or disposed of by state; survivor or survivors retain ownership
3. Does not go through probate

C. Tax Implications

1. Surviving spouse inherits full amount, estate tax free
2. Where the joint owner is not a spouse, only the deceased person's share will be included in the estate for Federal Gift and Estate Tax purposes

3. Tenants-in-common

A. Conditions of Ownership

1. Two or more persons
2. No right of survivorship
3. Does not have to be real estate

B. Transfer

1. Each owner can sell his/her share at any time
2. Each owner can will his/her share at any time
3. Deceased owner's share can be transferred by state in absence of will

C. Tax Implications

1. Each deceased owner's share will go through probate as part of his/her estate
2. Each deceased owner's share will be subject to estate tax if amount is large enough, unless it is willed to a surviving spouse

PROPERTY OWNERSHIP

1. Conditions of
2. Transfer of
3. Tax Implications

SOLE OWNERSHIP

A. CONDITIONS OF OWNERSHIP

1. One owner (One name on a title or owner in fee simple in real estate deeds).

B. TRANSFER BY:

1. Selling
2. Giving
3. Putting in Trust
4. Willing
5. State will disperse of property at death according to the Missouri Laws of Descent, if there is no will.

SOLE OWNERSHIP: (continued)

C.TAX IMPLICATIONS

1. Will go through probate, with or without a will.

2. All property owned in sole ownership will be computed as part of the estate for estate tax purposes at the death of the owner, unless it is willed to a spouse. Any amount can be willed or gifted to a spouse, estate tax free.

3. No estate tax due after January 1, 1983 if net taxable estate is $275,000 or less. This amount will increase up to $600,000 by 1987.

CO-OWNERSHIP

1. Tenancy By Entirety
2. Joint Tenancy
3. Tenants-In-Common

TM-4

CO-OWNERSHIP

1. TENANCY BY ENTIRETY

A. Conditions of Ownership

1. Applies only to husband and wife
2. Applies to both real and personal property
3. Provides right of survivorship
4. Cannot be sold or transferred without agreement by both
5. A creditor of one owner cannot reach it

TENANCY BY ENTIRETY — (continued 2)

B. Transfer of

1. Requires consent of both to sell or give or put in a trust
2. Cannot be willed
3. Will not be transferred by state; survivor retains ownership
4. Does not go through probate

TENANCY BY ENTIRETY (continued)

C. Tax Implications:

1. Surviving spouse inherits full amount, estate tax free

CO-OWNERSHIP

2. Joint Tenancy

A. Conditions of Ownership

1. Two or more owners — do not have to be spouses

2. Need not be real estate, but applies also to bank accounts, stock, bonds, mutual funds, etc.

3. Provides right of survivorship

JOINT TENANCY — (continued 2)

B. Transfer of

1. Any one of owners can dispose of, or cash, or withdraw, even without consent of other.

2. Cannot be willed or disposed of by state; survivor or survivors retain ownership.

3. Does not go through probate

JOINT TENANCY (continued)

C. Tax Implications

1. Surviving spouse inherits full amount, estate tax free. Where the joint owner is not a spouse, only that person's share will be included in the estate.

CO-OWNERSHIP

3. TENANTS-IN-COMMON

A. Conditions of Ownership

1. Two or more persons
2. No right of survivorship
3. Does not have to be real estate

TENANTS-IN-COMMON — (continued 2)

B.Transfer of

1. Each owner can sell his/her share at any time
2. Each owner can will his/her share at any time
3. Can be transferred by state in absence of will (deceased owner's share)

TENANTS-IN-COMMON (continued)

C. Tax Implications

1. Each deceased owner's share will go through probate as part of his/her estate.

2. Each deceased owner's share will be subject to estate tax if amount is large enough, unless it is willed to a surviving **spouse.**

ESTATE PLANNING

LESSON: The Basics of Estate Taxes

CONCEPTS:

1. A federal estate tax is imposed upon the estate of the deceased after allowable deductions. Federal and State Estate Tax Returns will usually be filed within a year of a person's death, if the gross estate exceeds $175,000.

2. Property that is subject to probate and property that is subject to estate taxes may be the same, but in many cases is, or can be, different. For example, property owned in joint tenancy will not be subject to probate, but can be subject to estate taxes.

3. Federal Estate Tax laws were revised in the Economic Recovery Tax Act of 1981, with many implications for estate planning.

4. New revisions in Missouri have resulted in elimination of state inheritance taxes to be replaced by a Missouri Estate Tax. This means that taxes will be on the undivided estate, not on individual inheritances.

5. Gifts are taxable at the same rate as the estate if they exceed allowable limits of $10,000 per gift, per person, per year. ($20,000 for married couples.)

6. There is now an unlimited marital deduction. There is no limit on the amount that can be transferred from one spouse to another at death, or as a gift.

7. The adjusted gross estate will generally have to exceed $275,000 in 1983 and $600,000 by 1987, before estate taxes will be due.

SUGGESTED ACTIVITIES:

1. Many persons seem to confuse probate procedures and federal estate tax filing. The differences between these need to be carefully explained.

2. Use handouts and overhead transparencies and the information outline to explain how estate taxes are computed. The example in "Calculating Estate Taxes" can be used to explain how the Unified Tax Credit and the marital deduction are used.

3. The Federal Estate Tax Chart can be used in CALCULATING THE TAX. It also illustrates the progressive nature of the estate tax.

4. Married couples should be warned that while the transfer of the estate from one spouse to another at the death of the first spouse will not involve any estate taxes if it all goes to the surviving spouse, the surviving will have difficulty transferring the estate at his/her death if the estate distribution is not carefully planned and the estate is sizable.

INSTRUCTIONAL MATERIALS

1. HO-1: Basics of Federal Estate Taxes
2. HO-2: Calculating Estate Taxes
3. HO-3: Tax Schedules
4. Transparency Masters

   TM-1: Estate Taxes--Inheritance Taxes

   TM-2: Marital Deduction

   TM-3: Gift Exemption

   TM-4: Gift Exemption (cont)

   TM-5: Unified Tax Credit

   TM-6: Unified Tax Credit

   TM-7: Unified Tax Credit

   TM-8: Calculating Estate Taxes

   TM-9: Tax Schedule

   TM-10: New Lower Rates

REFERENCES:

1. Brosterman, Robert. The Complete Estate Planning Guide. (1982 Revision) New American Library, New York: 1982.

2. Crumbley, D. Larry and Milam, Edward E. Estate Planning in the '80's. Revised Edition, American Management Association: New York, 1982.

3. Estate Planning for Missouri Families. Manual 68, University of Missouri-Columbia Extension Division, Columbia, Missouri, February, 1982.

4. Rosefsky, Robert S. Personal Finance, Second Edition. New York: John Wiley and Sons, Inc. 1983.

5. Weirich, Jean Luttrell. Personal Financial Management. Boston: Little, Brown and Company, 1983.

6. 1981 Economic Recovery Tax Act Highlights, Commerce Clearing House Inc., Clark, New Jersey 07066, October 1981.

TEST QUESTIONS

Federal Estate Taxes

MULTIPLE CHOICE:

1. This consists of everything that an individual owns or that is owed to the individual.
   a. adjusted gross estate
   b. gross estate
   c. net estate
   d. taxable transfers

2. Which of the following is not an estate tax avoidance device?
   a. child purchases asset from an estate prior to death
   b. gifts
   c. life insurance
   d. sole ownership of assets

3. Beginning in 1987, the federal estate tax credit will be
   a. $47,000
   b. $192,000
   c. $600,000
   d. 50% of the value of the estate

4. Janice gave her daughter $20,000 a year for five years prior to her death. How will these gifts affect her estate taxation?
   a. no effect, as gifts up to $20,000 are tax free
   b. one-half of the gifts will be subtracted from the unified tax credit before estate taxes are computed
   c. one-half of the gifts will be subtracted from the tax-free allowance before estates taxes are computed
   d. one-half of the gift will be added to the unified tax credit before estate taxes are computed

5. Of the following, which would you generally expect to consume the largest portion of an estate in Missouri?
   a. federal estate taxes
   b. Missouri estate taxes
   c. Missouri inheritance taxes
   d. federal income taxes

TRUE-FALSE

T F 1. Estates, being legal entities in their own right, may be required to pay estate taxes.

T F 2. The estate of a person who dies in Missouri is subjected to a state inheritance tax.

T F 3. Not all estates are subjected to estate taxes.

T F 4. In Missouri, all estates will be subject to a Missouri Estate Tax.

T F 5. Estate taxes are taxes to be paid out of the assets of an estate before anything is distributed to the beneficiaries of that estate.

T F 6. In doing the estate planning necessary to minimize taxes, it is important to pay attention to the estate of a surviving spouse.

T F 7. The 1981 tax laws eliminated giving gifts as a means of reducing one's estate and thereby the taxes thereon.

T F 8. James, at age ninety-nine, just won the state lottery which will net $1,000,000 dollars after taxes. He would like to give up to $10,000 to each of ninety-nine persons and leave $10,000 for himself. However, he has decided not to, and rightfully so, because if he makes these gifts he will also have to pay large gift taxes.

T F 9. The federal estate and gift tax schedules were combined into a single tax credit so that some individuals do not give all of their property away before death merely to avoid taxation.

T F 10. No matter how well you plan your estate, all estates must pay a minimum federal estate tax of 18 percent of the total estate.

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Federal Estate Taxes

Answer Sheet

Multiple Choice:

1. b
2. d
3. b
4. c
5. a

True-False:

1. T
2. F
3. T
4. F
5. T
6. T
7. F
8. F
9. T
10. F

ESTATE PLANNING

ESTATE TAXES

INFORMATION OUTLINE

When a person dies, his or her "estate" becomes a legal entity. If the estate is large enough, the federal government will levy a tax on the value of the estate. The tax is to be paid out of the assets of the estate, generally before anything is distributed to the survivors. This is called an "estate tax" and may be levied by both federal and state governments. The federal estate tax is the biggest of all possible taxes arising on one's death. In Missouri, an estate tax levied by the state will also be payable if the estate is large enough. The Missouri Estate Tax will be based on the amount of the Federal Estate Tax, so generally, anything done to reduce Federal Estate Taxes will also reduce Missouri Estate Taxes.

Some states levy an inheritance tax. <u>There is no inheritance tax in Missouri</u>. An inheritance tax is one that is paid by those who receive the proceeds from the estate, or an inheritance. (TM-1)

I. <u>The 1981 Economic Tax Recovery Act (ERTA)</u> made extensive changes in the federal estate and gift tax regulations. Some of the important highlights of this legislation are:

1. Unlimited marital deduction. (TM-2) Any amount can be gifted or willed to a spouse tax free. This means that all property owned in joint tenancy or tenancy by the entirety will pass to a surviving spouse gift and estate tax free. While beneficial, this provision will not solve all estate planning problems concerning

joint property. It does not address the problem of how to minimize estate taxes on the death of the surviving spouse. This is where most estate tax problems occur because there will be no marital deduction at this point, unless, or course, the surviving spouse remarries. If property is held in sole ownership or as tenants-in-common, with an unlimited marital deduction, the decedent can bequeath as much property as he would like to his spouse and the rest can go to whom he desires. In large estates, the unified gift and estate tax credit could be utilized along with the marital deduction to reduce taxes on the transfer of property when the second spouse dies.

2. Gift Exemption. (TM-3 and TM-4) $10,000 per gift, per year may be given by an individual without incurring any gift tax. This amount is increased to $20,000 per gift, per year, if the gift is given jointly by a husband and wife. Also, most gifts will not be included in the estate of a decedent dying after December 31, 1981, even if made shortly prior to his death. The old rule that gifts made within three years of death were included in the decedent's estate will no longer apply, except in some rare exceptions. One of the most notable of these is in some kinds of life insurance.

3. Jointly Owned Property. Where property is owned jointly, one-half of the jointly owned property will be considered a part of the decedent's gross estate. There is no need for proof of spousal contribution in joint interests.

4. Unified Tax Credit. (TM-5, TM-6 and TM-7) Every estate is allowed a unified gift and estate tax credit. This means that

every individual is allowed a credit to cover taxes levied on gifts that exceed the $10,000 limit and/or the tax levied on the Net Taxable Estate at the time of death. The net result of this unified tax credit is that a rather sizeable estate can be bequeathed and/or gifted tax free. The approximate size of the maximum exemption equivalent that is offset of the credit allowed is shown in the table below.

FEDERAL GIFT AND ESTATE TAX CREDITS

Dying in Year	Credit	Maximum Exemption Equivalent
1981	$ 47,000	$175,625
1982	62,800	225,000
1983	79,300	275,000
1984	96,300	325,000
1985	121,800	400,000
1986	155,800	500,000
1987	192,800	600,000

II. Calculating Estate Taxes (Use TM-8, TM-9, TM-10, HO-2 and HO-3).

1. The gross estate consists of everything that an individual owns or that is owed to the individual. This can include assets that may have been in joint names and that pass directly to the survivor of the jointly owned property. Assume 750,000

2. Deductible expenses are subtracted from the gross estate. These items can include funeral expenses, the costs of administering the estate, and certain debts of the deceased person. If the full value of jointly owned property has been included in the gross estate, then one-half of that amount may be deducted under deductible expenses. Assume $300,000

3. The marital deduction consists of that portion of an estate that is left to one's surviving spouse. Only gifts or

bequests made to the spouse qualify. Where property is jointly owned between spouses, the remaining value of that joint property would be a part of the marital deduction because rights of survivorship would determine that the surviving spouse would be entitled to that property. All other gifts or bequests to the surviving spouse would be deducted here also. Assume $325,000

4. Charitable Bequests are also deducted. Any gift or bequest to a qualifying charitable institution may be deducted. Assume $25,000

5. If any gifts over $3,000 were made prior to January 1, 1982, the amount of these gifts may be added back to the estate. Assume none

6. Any gifts over $10,000 after January 1, 1982, may be added back to the estate. Assume none

7. The Net Taxable Estate is the amount on which the tentative tax is based. This would be (based on above figures) $100,000.

8. The Tentative Tax (using Tax Schedule) would be $23,800.

9. Less Unified Credit (assuming death in 1983) $79,300.

10. Less: State Death Tax Credit (Column 4 on Tax Schedule) none.

11. Less: Gift Taxes Previously Paid. none

12. Gives: Net Tax Due. none

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BASICS OF FEDERAL ESTATE TAXES

(PROVISIONS OF 1981 ECONOMICS RECOVERY TAX ACT)

FEDERAL ESTATE TAXES - A FEDERAL TAX ON THE ESTATE OF DECEASED PERSONS.

THE 1981 FCONOMIC RECOVERY TAX ACT MADE DRAMATIC CHANGES IN THE FEDERAL GIFT AND ESTATE TAX. SOME IMPORTANT NEW PROVISIONS ARE:

MARITAL DEDUCTION: UNLIMITED. ANY AMOUNT CAN BE GIFTED OR WILLED TO A SPOUSE TAX FREE.

GIFT EXEMPTION: $10,000 EXEMPTION, PER GIFT, PER YEAR. FOR MARRIED COUPLES, THE EXEMPTION WOULD BE $20,000 PER YEAR, PER GIFT, IF THE GIFT IS GIVEN JOINTLY.

FOR DECEDENTS DYING AFTER 1981, THE OLD RULE THAT GIFTS MADE WITHIN THREE YEARS OF DEATH WERE INCLUDED IN THE DECEDENT'S ESTATE WILL NO LONGER APPLY, EXCEPT IN SOME RARE EXCEPTIONS.

JOINTLY OWNED PROPERTY: WHERE PROPERTY IS OWNED JOINTLY, ONE-HALF OF THE JOINTLY OWNED PROPERTY WILL BE CONSIDERED A PART OF THE DECEDENT'S GROSS ESTATE.

UNIFIED TAX CREDIT - EVERY ESTATE IS ALLOWED A TAX CREDIT AS FOLLOWS:

1983 - $79,300
1984 - $96,300
1985 - $121,800
1986 - $155,800
1987 - $192,800

THE NET RESULT OF THIS UNIFIED TAX CREDIT IS THAT A RATHER SIZEABLE ESTATE CAN BE BEQUEATHED AND/OR GIFTED TAX FREE, THE APPROXIMATE SIZE OF THE NET TAXABLE ESTATE WILL HAVE TO BE BEFORE ANY FEDERAL GIFT OR ESTATE TAXES WOULD BE PAYABLE.

275,000 IN 1983
325,000 IN 1984
400,000 IN 1985
500,000 IN 1986
600,000 IN 1987

MISSOURI ESTATE TAXES - REVISIONS IN 1980 RESULTED IN THE ESTATE TAX LEVIED BY THE STATE OF MISSOURI BEING BASED ON THE CREDIT GRANTED IN THE COMPUTATION OF THE FEDERAL ESTATE TAX. THIS CREDIT IS SHOWN ON THE ACCOMPANYING FEDERAL ESTATE TAX TABLE. ESTATE PLANNING TO REDUCE FEDERAL TAXES SHOULD RESULT IN A REDUCTION OF MISSOURI ESTATE TAXES.

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275,000 IN 1983
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CALCULATING ESTATE TAXES

1.	Gross Estate		_____
2.	Less: Allowable Deductions	-	_____
3.	Gives: Adjusted Gross Estate	=	_____
4.	Less: Marital Deduction	-	_____
5.	Less: Charitable Bequests	-	_____
6.	Plus: Gifts Over $3,000 (prior to Jan. 1, 1982)	+	_____
	Plus: Gifts Over $10,000 (starting Jan. 1, 1982)	+	_____
7.	Gives: Net Taxable Estate	=	_____
8.	Calculate: Tentative Tax	=	_____
9.	Less: Unified Credit	-	_____
10.	Less: State Death Tax Credit	-	_____
11.	Less: Gift Taxes Previously Paid	-	_____
12.	Gives: Net Tax Due	=	_____

TAX SCHEDULES

Federal Estate and Gift Tax Rates
Effective January 1, 1982

"A" Taxable Estate Plus Taxable Gifts After 1976 Not Included in Gross Estate	Federal Estate Tax on Column "A" Before State Death Tax Credit	Rate of Tax on Excess of Amount in Column "A"	*Maximum Credit for Inheritance and State Estate Tax on Amount in Column "A"	Rate of Credit on Excess of Amount in Column "A"
$ 0	0	18%	$ 0	0%
10,000	1,800	20	0	0
20,000	3,800	22	0	0
40,000	8,200	24	0	0
60,000	13,000	26	0	0
80,000	18,200	28	0	0
100,000	23,800	30	0	.8
150,000	38,800	32	400	1.6
200,000	54,800	32	1,200	2.4
250,000	70,800	34	2,400	2.4
300,000	87,800	34	3,600	3.2
400,000	121,800	34	6,800	3.2
500,000	155,800	37	10,000	4.0
600,000	192,800	37	14,000	4.0
700,000	229,800	37	18,000	4.8
750,000	248,300	39	20,400	4.8
900,000	306,800	39	27,600	5.6
1,000,000	345,800	41	33,200	5.6
1,250,000	448,300	43	48,400	6.4
1,500,000	555,800	45	64,400	6.4
1,600,000	600,800	45	70,800	7.2
2,000,000	780,800	49	99,600	7.2
**2,500,000	1,025,800	53	138,800	8.0
**3,000,000	1,290,800	57	182,000	8.8
**3,500,000	1,575,800	61	229,200	9.6
**4,000,000	1,880,800	65	280,400	10.4
Over 4,000,000		65		

*Based on the size of taxable estate before adding taxable gifts.
**The maximum rates for gifts made and decedents dying
during 1983 . . . . . .60% on transfers over $3,500,000;
during 1984 . . . . . .55% on transfers over $3,000,000;
after 1984 . . . . . .50% on transfers over $2,500,000.

UNIFIED ESTATE AND GIFT TAX CREDIT

The following is the amount of credit to be used against gift and estate taxes. The Credit must be used to reduce any gift taxes due.

Time of Gift or death	Unified Estate and Gift Tax Credit	Exemption Equivalent
During 1982	$ 62,800	$225,000
During 1983	79,300	275,000
During 1984	96,300	325,000
During 1985	121,800	400,000
During 1986	155,800	500,000
After 1986	192,800	600,000

ESTATE TAX

Taxes paid out of the assets of the estate before anything is distributed to the heirs. There is a Federal Estate Tax and a Missouri Estate Tax.

INHERITANCE TAX

Taxes paid by the heirs after the estate has been distributed.

GIFT TAXES

Taxes paid on gifts if the gift exceeds the allowable limits. The gift tax is made by the donor (person making the gift). Missouri has no gift tax. The federal government will tax gifts if they exceed allowable limits.

MARITAL DEDUCTION

After Jan. 1, 1982

100% - of what is left to decedent's or donor's spouse - can be willed or gifted without any estate tax.

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TM-2

GIFT EXEMPTION

January 1, 1982

10,000 per person

20,000 per couple

unlimited between spouses

TM-3

Also: For decedents dying after 1981, the old rule that gifts made within three years of death were included in the decedent's estate will no longer apply, except in some specified conditions that would not apply very frequently.

UNIFIED TAX CREDIT

$62,800 - Per Estate
For 1982

*$79,300 for decedents dying in 1983 (increasing the tax-free gift and bequest threshold to $275,000);

*$96,300 for decedents dying in 1984 (increasing the tax-free gift and bequest threshold to $325,000);

*$121,800 for decedents dying in 1985 (increasing the tax-free gift and bequest threshold to $400,000);

*$155,800 for decedents dying in 1985 (increasing the tax-free gift and bequest threshold to $500,000); and finally

*$192,800 for decedents dying in 1987 and later years (increasing the tax-free gift and bequest threshold to $600,000).

CALCULATING ESTATE TAXES

1. Gross Estate
2. Less: Allowable Deductions
3. Gives: Adjusted Gross Estate
4. Less: Marital Deducation
5. Less: Charitable Bequests
6. Plus: Gifts Over $3,000
   Prior to Jan. 1, 1982
   Plus: Gifts Over $10,000
   Starting Jan. 1, 1982
7. Gives: Net Taxable Estate
8. Calculate: Tentative Tax
9. Less: Unified Credit
10. Less; State Death Tax Credit
11. Less: Gift Taxes Previously Paid
12. Gives: Net Tax Due

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$ 0	0	18%	$ 0	0%
10,000	1,800	20	0	0
20,000	3,800	22	0	0
40,000	8,200	24	0	0
60,000	13,000	26	0	0
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1,500,000	555,800	45	64,400	6.4
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*Based on the size of taxable estate before adding taxable gifts.
**The maximum rates for gifts made and decedents dying
during 1983 . . . . . .60% on transfers over $3,500,000;
during 1984 . . . . . .55% on transfers over $3,000,000;
after 1984 . . . . . .50% on transfers over $2,500,000.

UNIFIED ESTATE AND GIFT TAX CREDIT

The following is the amount of credit to be used against gift and estate taxes. The Credit must be used to reduce any gift taxes due.

Time of Gift or death	Unified Estate and Gift Tax Credit	Exemption Equivalent
During 1982	$ 62,800	$225,000
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During 1984	96,300	325,000
During 1985	121,800	400,000
During 1986	155,800	500,000
After 1986	192,800	600,000

NEW LOWER RATES

Maximum Reduced From

Now - 1981 - 70%

to

1982 - 65%

1983 - 60%

1984 - 55%

1985 - 50%

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TM-10

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ESTATE PLANNING

LESSON: Wills

CONCEPTS:

1. A will is a tool to aid in distributing one's property at death.

2. Wills must meet the state's legal requirements.

3. Several questions should be answered in determining whether or not a will is needed.

4. Compiling essential information is necessary in making wills and doing effective estate planning.

SUGGESTED ACTIVITIES:

1. Write: Missouri Bar Association
P. O. Box 119
Jefferson City, Missouri 65102
for sufficient quantities (free of charge) of
Legal Facts About Wills
Legal Facts About Missouri's New Probate Code.

2. Provide copies of the Fact Sheet for Financial Planning introduced in the lesson on "Introduction to Estate Planning" to use in compiling information.

3. Use transparency masters, information outline, and pamphlets to present the information.

4. Use HO-1: Getting Your Will Written to review information about wills and to outline a procedure to follow. This will help reduce attorney preparation fees.

INSTRUCTIONAL MATERIALS:

1. HO-1: Getting Your Will Written

2. Transparency Masters

TM-1: A Will Is:

TM-2: Codicil

TM-3: Legal Requirements in Missouri

TM-4: Do I Need a Will?

TM-5: Do I Need a Will?

TM-6: Personal Representative

REFERENCES:

1. Brosterman, Robert. The Complete Estate Planning Guide. (1982 Revision) New American Library, New York: 1982.

2. Estate Planning for Missouri Families. Manual 68, University of Missouri-Columbia Extension Division, Columbia, Missouri, February, 1982.

3. Missouri Bar Association, Legal Facts About Wills.

4. Missouri Bar Association, Legal Facts About Missouri's New Probate Code.

5. Rosefsky, Robert S. Personal Finance, Second Edition. New York: John Wiley and Sons, Inc. 1983.

6. Weirich, Jean Luttrell. Personal Financial Management. Boston: Little, Brown and Company, 1983.

TEST QUESTIONS

Wills

MULTIPLE CHOICE:

1. When a decedent has minor children:
   a. plans for the children's guardian and alternative guardian of person and assets should be described in the will
   b. the guardian for the children must be a relative
   c. the personal guardian must also be the guardian for the child's inheritance
   d. equal amounts must be left to the children in order not to indicate a parent's preferences

2. The Personal Representative
   a. is the person named to be guardian of the surviving children
   b. may be a personal friend, a financial institution or professional, or both who is named to see that an estate is administered
   c. must work only a few hours calling friends and relatives to let them know of the death

3. The person named in the will who cares for the children of a deceased parent is the
   a. beneficiary
   b. trustee
   c. guardian
   d. executor

4. This is one way that a will can be legally changed
   a. codicil
   b. holographic will
   c. inter vivos will
   d. prior will

5. Where both a husband and wife and killed simultaneously, a common disaster clause in their wills would
   a. set forth the sequence of the deaths
   b. name the alternate Personal Representatives
   c. establish a trust for the children

TRUE-FALSE:

T F 1. The person who receives the assets of an estate is the beneficiary.

T F 2. A will should be changed or updated if the beneficiary dies.

T F 3. According to state law in Missouri, the Personal Representative must perform his duties without a fee.

T F 4. In order for a will to be legal, it must always be prepared by an attorney.

T F 5. The person who makes the will is said to be the testator.

T F 6. Wills in Missouri require three witnesses to be valid.

T F 7. Any person of sound mind and 18 years of age can execute a will in Missouri.

T F 8. A will can make a provision for beneficiaries based on need, where Missouri laws on descent and distribution is based on specific lines of descent.

Wills

Answer Sheet

Multiple Choice:

1. a
2. b
3. c
4. a
5. a

True-False:

1. T
2. T
3. F
4. F
5. T
6. F
7. T
8. T

ESTATE PLANNING

WILLS

INFORMATION OUTLINE

I. What is a Will? (Use TM-1 and TM-2).

A will is a writing that provides for the distribution of property upon the death of the writer (testator). It confers no rights prior to that time. A will may be revoked, changed or added to at any time before death. The codicil is an addition or change to a will.

II. Legal Requirements of Wills in Missouri (Use TM-3).

The laws of each state set the formal requirements for a legal will. These rules have been developed over hundreds of years for the protection of the testator and the beneficiaries and must be followed carefully. Legal requirements in Missouri, in general, are:

1. The testator (maker of the will) must be 18 years of age.
2. The testator must be of sound mind at the time the will is signed.
3. The will must be in writing and signed by the testator.
4. The will must be witnessed by two or more witnesses. The new Probate Code allows the testator to execute a so-called "Self-Proving" will, whereby the witnesses sign the instrument before a Notary Public. This will allow your Personal Representative to open your Estate without having to call in witnesses to verify as to the validity of the will and avoid inconvenience on the part of the witnesses.

III. Do I Need a Will? (Use TM-4 and TM-5).

If you can answer "Yes" to the following six questions, there is a possibility that you may not need a will. If you cannot

answer "yes" to even one of these questions, you probably should have a will. An attorney can further clarify or verify this question for you, however, and should probably be consulted before you decide definitely that you do not need a will. If you do need a will, you will certainly want to consult an attorney for its preparation. Answering the following six questions can be a guide to answering this question:

1. Does property ownership transfer my property adequately? If property is owned jointly as joint tenants or as tenants by the entirety, then the conditions of ownership determine what will happen to that property at your death. However, all property owned in sole ownership or as a tenant-in-common at the time of death will be distributed according to the Missouri laws of descent and distribution if its transfer is not provided for in a will.

2. Would the state distribute my property satisfactorily? Review the Missouri laws of descent and distribution in relation to your specific case. This distribution is not based on <u>need</u>, but on specific lines of descent. This is not always satisfactory.

3. Am I willing to let the court appoint someone to take care of the administration of my estate? If a person dies intestate, and there is an estate that has to be administered, then the Probate Division of the Circuit Court will appoint a Personal Representative (TM-6) to legally administer your estate. You can choose your own Personal Representative by naming that person in your will. (Note: The new Probate Code in Missouri uses the Personal Representative to be synonymous with the previous designated terms of executor/trix, administrator/trix.)

4. Is my estate so small that estate taxes will be no problem? In general, a net taxable estate of less than $275,000 in 1983 will not be subject to Federal Gift and Estate Taxes, and thus not subject to Missouri Estate Taxes. By 1987, a net taxable estate will have to exceed $600,000 before estate taxes are of any consequence. However, if the estate exceeds these amounts, estate taxes may be a problem, and careful estate planning and probable use of a will may be indicated.

5. Would I want my Personal Representative to post bond? The new Probate Code in Missouri permits you to request that your estate be administered independently of the court, thus reducing costs. Even if you want your estate administered by the Court, you may request that your Personal Representative serve without bond. If not so requested, the Court will probably require an indemnity bond by your Personal Representative. The cost of this bond comes out of the estate.

6. Have I made adequate provision for all the people dependent on me (minor children, invalids, incompetent or other handicapped persons)? Special provisions, trusts or other devices may need to be employed to provide adequately for those persons. A will may be necessary to implement those provisions. Parents of minor children may need a will for the sole purpose of naming guardians for those children in the event of death of the parents.

IV. How Should I Proceed to Get a Will Written?

Use HO-1 to outline and explain the procedure for getting a will prepared and written. Note that the Financial Planning Fact Sheet introduced with the Letter of Last Instructions provides a framework for gathering pertinent information for the compilation of a will.

GETTING YOUR WILL WRITTEN

I. Review the Present State of Your Affairs

A. How property is owned

B. What state distribution will be if you do not have a will

II. Gather the Facts (See Fact Sheet for Financial Planning)

A. Residence and domicile (permanent home)

B. Family status
   1. Spouse
   2. Children
   3. Living relatives from whom you may expect an inheritance

C. Safe deposit box--location of box and key

D. Beneficiaries
   1. Names and addresses of persons to be considered in planning your estate
   2. Relationship to you
   3. Financial needs
   4. Character traits

III. Prepare a Financial Workform (Use Financial Planning Workform)

A. Assets
   1. Cash
      a. checking accounts--locations and account numbers
      b. savings accounts--locations and account numbers
      c. U. S. savings bonds--locations and descriptions
   2. Major personal property
      a. car
      b. jewelry
      c. stamp collection
      d. antiques
      e. art
      f. furniture
      g. coin collection
      h. china, silver, and crystal
   3. Real estate
   4. Life insurance (face value)
   5. Pension rights
   6. Business interest
   7. Loans owed to you

GETTING YOUR WILL WRITTEN (CONTINUED)

8. Securities/investments
   a. stocks
   b. corporate bonds
   c. municipal bonds
   d. mutual funds
9. Social Security benefits
10. Inheritances (possible)

B. Liabilities
1. Accounts payable
2. Notes payable
3. Real property mortgages
4. Installment debts owed
5. Conditional bills of sale
6. Obligations under contract

IV. Engage a Lawyer to Plan Your Will With You

A. The lawyer's knowledge is a guarantee that the necessary technical requirements will be met.

B. The lawyer is aware of legal relationships involved.

C. The lawyer will be more specific.

V. Make the Will

A. A will is a writing that provides for the distribution of property upon the death of the writer, but confers no rights prior to that time.
1. A competent attorney is a necessity when drawing up a will.
2. The person making the will, the testator or testatrix, must be of sound mind.
3. A personal representative is named in the will and is paid a fee for his services.

B. General contents
1. A statement of the domicile of the testator or testatrix
2. A statement revoking prior wills
3. A provision for payment of debts and funeral expenses
4. Funeral and burial directions may be included but need not be
5. A provision for the disposition of real property
6. A provision for the disposition of personal property and household effects
7. A statement about legacies--general and/or specific
8. Charitable or religious bequests
9. A statement concerning the residual estate--all the remaining items that have not yet been effectively disposed of by the will

GETTING YOUR WILL WRITTEN (CONTINUED)

10. A statement of appointment of the personal representative. The testator may request that this person serve without bond.

C. The Common Disaster Clause which provides for disposition if both husband and wife are killed at the same time in an accident, should be included in all wills.

D. A codicil to a will is defined as an addition or change executed with the same formalities as required in the will itself.

VI. Legal Requirements of Wills in Missouri

A. The testator (maker of the will) must be 18 years of age.

B. The testator must be of sound mind at the time the will is signed.

C. The will must be in writing and signed by the testator.

D. The will must be witnessed by two or more witnesses.

VII. What to do With a Will

A. Generally four things can be done with the will once it has been written:
1. The will is left with the attorney who drew it.
2. Where a financial institution has been named as one of the personal representatives, the will is placed with the institution for safe keeping.
3. The will can be placed in the testator's/testatrix's own safe deposit box.
4. The will can be kept in the home of the testator/testatrix.

B. The last letter of instructions, updated annually, should include a statement of where the will may be found and should be placed in an easily accessible place by the testator.

VIII. Conclusion

A. Planning an estate properly should leave the property to those the owner knows should have it.

B. The will is one instrument that may be used to avoid unnecessary estate taxes and other unwanted costs.

A WILL IS:

A WRITING THAT PROVIDES FOR THE DISTRIBUTION OF PROPERTY UPON THE DEATH OF THE WRITER, BUT CONFERS NO RIGHTS PRIOR TO THAT TIME.

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TM-1

THE CODICIL

A CODICIL TO A WILL IS DEFINED AS AN ADDITION OR CHANGE EXECUTED WITH THE SAME FORMALITIES AS REQUIRED IN THE WILL ITSELF.

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TM-2

LEGAL REQUIREMENTS OF WILLS IN MISSOURI

1. The testator (maker of the will) must be 18 years of age.
2. The testator must be of sound mind at the time the will is signed.
3. The will must be in writing and signed by the testator.
4. The will must be witnessed by two or more witnesses.

TM-3

DO I NEED A WILL?

1. DOES PROPERTY OWNERSHIP TRANSFER MY PROPERTY ADEQUATELY?

2. WOULD THE STATE DISTRIBUTE MY PROPERTY SATISFACTORILY?

3. AM I WILLING TO LET THE COURT APPOINT SOMEONE TO TAKE CARE OF THE ADMINISTRATION OF MY ESTATE?

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TM-4

(DO I NEED A WILL?--CONTINUED)

4. IS MY ESTATE SO SMALL THAT ESTATE TAXES WILL BE NO PROBLEM?

5. WOULD I WANT MY PERSONAL REPRESENTATIVE TO POST BOND?

6. HAVE I MADE ADEQUATE PROVISION FOR ALL THE PEOPLE DEPENDENT ON ME (MINOR CHILDREN, INVALIDS, OR HANDICAPPED PERSONS)?

PERSONAL REPRESENTATIVE

The individual in charge of your Estate. Abolishes the old, and often confusing, titles of: Executor, Executrix, Administrator, Administratrix.

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TM-6

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ESTATE PLANNING

LESSON: Gifts and Trusts in Estate Planning

CONCEPTS:

1. Gifts and trusts are estate planning tools that have both advantages and disadvantages.

2. Gifts completely remove property from the donor's estate and become the property of the donee.

3. A trust is a legal document that controls how property is to be managed and who is to receive the income from your property.

4. Property placed in a trust is not probated, thus reducing probate costs.

5. Property placed in a trust may reduce estate taxes.

6. Trusts can be used to provide income for a dependent without the ability to manage property or earn a living for themselves.

7. The use of trusts is more complex than ever. Nothing concerning trusts should be done without expert legal and tax advice.

SUGGESTED ACTIVITIES:

1. Use transparency masters and hand-out materials to present subject matter content.

2. Review gift tax exemption under the 1981 Economic Recovery Tax Act as discussed in Estate Taxes.

3. Advantages and disadvantages of gifts and trusts can usually be developed with older adults through discussion of their experiences and knowledge of real-life situations they have observed.

INSTRUCTIONAL MATERIALS:

1. HO-1: Advantages and Disadvantages of Gifts

2. HO-2: Advantages and Disadvantages of Trusts

3. Transparency Masters

   TM-1: Advantages of Gifts in Estate Planning

   TM-2: Disadvantages of Gifts in Estate Planning

   TM-3: Trusts in Estate Planning

   TM-4: Disadvantages of Trusts in Estate Planning

   TM-5: Types of Trusts

REFERENCES:

1. Brosterman, Robert. The Complete Estate Planning Guide. (1982 Revision) New American Library, New York: 1982.

2. Crumbley, D. Larry and Milam, Edward E. Estate Planning in the '80's. Revised Edition, American Management Association: New York, 1982.

3. Estate Planning for Missouri Families. Manual 68, University of Missouri-Columbia Extension Division, Columbia, Missouri, February, 1982.

4. Rosefsky, Robert S. Personal Finance, Second Edition. New York: John Wiley and Sons, Inc. 1983.

5. Weirich, Jean Luttrell. Personal Financial Management. Boston: Little, Brown and Company, 1983.

TEST QUESTIONS

Gifts and Trusts

MULTIPLE CHOICE:

1. If you want to leave part of your estate to your son, but do not want him to have the money until 10 years after your death, you could use which of the following devices to make the arrangements?
   a. joint account
   b. probate
   c. trust
   d. gift

2. A trust that is established in one's will to take effect on the death of the testator
   a. Life Estate
   b. Life Trust
   c. Testamentary Trust
   d. Living Trust

3. The parents retain ownership of the principal and the child receives the interest under a:
   a. Clifford trust
   b. gift
   c. bequest in a will

4. A living trust:
   a. is a legal arrangement whereby an individual puts property in trust to be managed and invested for the benefit of the trust's beneficiaries
   b. cannot be used to manage money for people who could do just as well on their own
   c. always reduces income and estate taxes
   d. may not be changed once it is established
   e. all of the above

5. The most logical advantage to a trust for most people is
   a. that they are very inexpensive
   b. simple and uncomplicated to plan and carry out
   c. to provide management of assets for children or others who are not competent to do this themselves

TRUE-FALSE

T F 1. An estate that might otherwise be subject to taxation can be reduced considerably by providing beneficiaries with gifts--small portions of the estate--over a period of years prior to death.

T F 2. Gifts should not be made to the extent that the donor's future financial security would be endangered.

T F 3. The beneficiary of a gift must pay income tax on that gift.

T F 4. Trusts are sometimes complicated and expensive ways of doing things that can be accomplished by simpler means.

T F 5. The marital trust can be used to avoid one generation of estate taxes in large estates.

T F 6. A revocable trust cannot be changed or revoked after it is established.

Gifts and Trusts

Answer Sheet

Multiple Choice:

1. c
2. c
3. a
4. a
5. c

True-False:

1. T
2. T
3. F
4. T
5. T
6. F

ESTATE PLANNING

GIFTS AND TRUSTS IN ESTATE PLANNING

INFORMATION OUTLINE

I. Gifts in Estate Planning (Use TM-1).

There can be a number of advantages of utilizing the $10,000 ($20,000 if jointly by spouses) gift exemption in estate planning.

1. Reduces the size of the estate for taxes and probate costs. Where estates are sizeable, and a primary objective is to transfer the most property possible to the succeeding generation(s), an exemption of $10,000 to $20,000 per gift, per year can substantially reduce the amount of the estate to be transferred at death. If the gift were income producing property, that income would accrue to the beneficiary and not to the estate of the donor.

2. Freezes value of appreciable assets. When rapid inflation is part of the economic picture, an asset worth $10,000 may be transferred as a gift, tax free, where five years later with significant inflation, that asset may be valued at $25,000 as a part of the estate.

3. Assures proper distribution. By making gifts during the lifetime, the donor can be aware of the needs and resulting distribution of assets to heirs.

4. Tests the beneficiary's ability to manage. The way a gift is used or managed may be some indication about the ability to manage a larger inherited estate, or may provide the opportunity for the beneficiary to become more knowledgeable about that management while the donor is available for advice and direction.

There are also some disadvantages of using gifts in estate planning (TM-2).

1. No one knows when death will occur, and once a gift is made there is no way that the donor can legally regain possession. Gifts should not be made to the extent that the donor's future financial security would be endangered.

2. The beneficiary pays no tax on the gift, however, all income that the gift provides will be taxable. This may place the beneficiary in a higher income tax bracket. If the gift is eventually sold, tax will be paid on the gain (sale price, less value of gift when made). This may result in a higher income tax than if the property were obtained as part of the estate where the value might be higher (assuming inflation and that distribution from the estate occurred later than the outright gift). For example, Mr. Jones gave his son some stock certificates valued at $10,000. Five years later the son sold his shares for $20,000. He would pay tax on $10,000 gain. If the son had inherited the stock at $20,000 he could have sold them, obtained the $20,000 tax free. If he inherited the stock at a value of $20,000 and sold them five years later for $30,000, he would pay tax on the gain of $10,000--the difference between the inherited value and what he got when he sold them.

II. Trusts in Estate Planning

1. What Is A Trust? (Use TM-3).

A trust is a legal arrangement whereby one person places property in a trust that is managed and invested by a trustee for the benefit of the beneficiaries. Trusts basically have two major functions:

A. For managing money for children or adults who do not have the ability or interest in handling the funds.

B. To reduce taxes.

When making estate plans, it is not important so much to know what kind of trust is desirable, but rather to identify what the need is in the estate plan that you want to accomplish. With this information an attorney can make recommendations as to which estate tool can best meet the specified goals.

2. Disadvantages of Trusts (Use TM-4).

While trusts can be effective estate planning tools, there are some warnings about trusts that should be taken into consideration.

1. Don't become so obsessed with saving or avoiding taxes that you lock your heir into a planner's prison.

2. Trusts are expensive and, once established, may lack flexibility. Some widows and adult children are subjected to trusts when they would rather and could manage the money themselves. When you restrict a beneficiary's control of his or her money, you are giving that control to someone else. Is the control by the trustee enough better to warrant the cost and the restriction on the heir of that control?

3. Consider simpler methods of meeting your personal and tax goals in estate planning before going to trusts. Some lawyers and trust officers may encourage trusts in hopes of getting continuing legal fees. Use a trust only when the cost and disadvantages are warranted because it meets your special needs when no other estate planning tool can.

Setting up a trust is very complicated and requires the assistance of an attorney or a trust officer, and possibly a certified public accountant. Costs may vary from $250 to $1,000 or more, depending on the size and design of the trust. Most trustees will charge from 5 to 8 percent of the income from the trust for management fees.

III. Types of Trusts (Use TM-5).

Trusts are a highly flexible money management and estate planning tool at the planning stage. They may be set up with any variety of conditions or restrictions as long as they meet the particular regulations established for their use. All of them will have some implications with regard to gift and estate taxes as well as income taxes that will need to be taken into consideration.

Living Trusts are those that are put into effect before the death of the grantor. A living trust may be revocable or irrevocable. A revocable trust can be changed or revoked at any time since it remains under the control of the grantor and is included in the estate at the time of the grantor's death. An irrevocable trust cannot be changed or revoked after it is established. The creation of and the placement of property in an irrevocable trust should be undertaken only after careful consideration. While property in an irrevocable trust may be excluded from the estate, it may have gift tax consequences. The 1981 Economic Tax Recovery Act has reduced the effectiveness of living trusts for tax reduction purposes.

A Testamentary Trust is used to pass property to heirs over two generations, but pay only one estate tax. The first-generation heirs receive only the income from the trust. When the first-generation heirs die, the trust is dissolved and the second-generation heirs receive the capital value in the trust. Property is placed in the trust at the time the creator of the trust dies. This trust is created in his will, and can be revoked by the creator by changing his will. Once the creator dies, and the trust goes into effect, it is for all practical purposes irrevocable. Since property is placed in the trust at the time the creator of the trust dies, that is the point at which estate taxes are paid. When the first heirs die, the property in the trust is distributed to the second heirs and no additional estate taxes are levied.

Typically, a testamentary trust would be used by a husband or wife to leave money for the spouse's benefit with the capital value in the trust going to their children when the second spouse dies. The purpose is to avoid one generation of estate taxes, but still have the money available for the surviving spouse's benefit. Under the 1981 Economic Recovery Tax Act, no estate tax is assessed on that part left to the spouse. If the amount put into a trust is within the maximum exemption equivalent ($600,000 in 1987), then no tax would be due on the amount put into the trust and would not be part of the estate of the second spouse. If the entire estate is left to the surviving spouse, the maximum exemption is not utilized by the estate of the first spouse and the estate of the second spouse would have only one maximum equivalent exemption and no marital exemption, thus facing heavy taxes if the estate is large.

TEMPORARY TRUSTS
(Short Term--"Clifford")

These kinds of trusts are revocable trust agreements which run for at least ten years and one day. They can be used to split income from an individual in a high marginal tax bracket to someone in a much lower bracket. This is accomplished by transferring assets, such as stocks or bonds, to the trust. During the existence of the trust, income from the assets is distributed to the lower-bracket taxpayers. At the end of the trust period--usually ten years and one day--the stocks and bonds are returned to the individual who set up the trust. The beneficiaries of the trust could be any person or group that you would not normally be expected to provide (grandchildren, parents). Educational trusts from grandparents to grandchildren is a common example.

One caution - there may be gift tax payable at the time the trust is set up. Whether a tax is payable depends on a number of factors. These include the amount placed in the trust, the duration of the trust and the number of beneficiaries named in the trust, and whether the trust is set up jointly by a husband and wife. Offsetting any potential tax liability is the annual $10,000 gift exclusion. Any tax would be charged against your Unified Gift and Estate Tax Credit.

AN EXAMPLE: A grandparent in the 40 percent marginal income tax bracket who wishes to save $1,000 a year for 10 years to build a college fund for a grandchild must earn $1,666 annually in order to have the $1,000 available for investments (taxes

at 40 percent take $666 from the total income). By setting up a short-term Clifford trust with the child as the income beneficiary, the income would be shifted from the grandparent's high tax bracket to the child's low tax bracket. In fact, if an amount sufficient to earn $1,000 a year was placed in the trust, the child could save the full income of $1,000 and not pay any taxes, nor would the grandparent have to pay any taxes on the income of $1,000. Also, income from the investment would not accrue to the estate of the grandparent to be taxed later as estate taxes.

ADVANTAGES OF GIFTS IN ESTATE PLANNING

1. REDUCES SIZE OF ESTATE FOR TAXES AND PROBATE COSTS.
2. FREEZES VALUE OF APPRECIABLE ASSETS.
3. ASSURES PROPER DISTRIBUTION.
4. TESTS THE BENEFICIARY'S ABILITY TO MANAGE.

DISADVANTAGES OF GIFTS IN ESTATE PLANNING

1. MAY ENDANGER FUTURE FINANCIAL SECURITY OF THE DONOR (GIVER).

2. WHILE THERE WILL BE NO TAX TO THE BENEFICIARY ON THE GIFT, INCOME FROM THE GIFT, OR SALES OF THE GIFT MAY HAVE SOME UNDESIRABLE IMPLICATIONS.

ADVANTAGES OF GIFTS IN ESTATE PLANNING

1. Reduces size of estate for taxes and probate costs.

2. Freezes value of appreciable assets.

3. Assures proper distribution.

4. Tests the beneficiary's ability to manage.

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TM-1

DISADVANTAGES OF GIFTS IN ESTATE PLANNING

1. May endanger future financial security of the donor (giver).

2. While there will be no tax to the beneficiary on the gift, income from the gift, or sale of the gift may have some undesirable implications.

TRUST

A legal arrangement whereby one person places property in a trust that is managed and invested by a trustee for the benefit of the beneficiaries of the trust.

ADVANTAGES OF TRUSTS

1. Management for people with inability to do so.
2. Can reduce taxes.

DISADVANTAGES OF TRUSTS

1. Locks heirs into a planner's prison.
2. Expensive.
3. Complicated—May be simpler ways.

TRUSTS

1. LIVING (inter vivos)

Revocable

Irrevocable

2. TESTAMENTARY

Example: Non-marital or residual

3. TEMPORARY — SHORT TERM

Example: Clifford Trust

ESTATE PLANNING

LESSON: How to Choose a Lawyer

CONCEPTS:

1. Choosing a lawyer involves considering your needs, the lawyer's ability to meet those needs and the cost of his services.

SUGGESTED ACTIVITIES:

1. Obtain sufficient quantities (free of charge) of Need Help to Find a Lawyer? Call--Missouri Lawyer Referral Services, by contacting:

   The Missouri Bar
   P. O. Box 119
   Jefferson City, MO 65102

2. Review references for additional background of subject matter.

3. HO-1: The Legal Clinic can be used to evaluate legal clinics and large firms.

4. HO-2 and HO-3 provide information for later reference in choosing a lawyer.

5. Ask students how they chose their lawyer, if they have one.

6. Remind persons 65 years of age and older that they can receive some legal services without charge by contacting their nearest Legal Aid Office or Area Agency on Aging office.

INSTRUCTIONAL MATERIALS:

1. HO-1: The Legal Clinic

2. HO-2: Interview the Candidates

3. HO-3: Fee: The Ultimate Sentence

4. Transparency Masters

   TM-1: Your Lawyer

   TM-2: Ways to Get Names

TM-3: Talk with Someone

TM-4: Lawyer Referral Service

TM-5: Legal Aid Services

TM-6: Types of Lawyers

TM-7: Lawyers who Practice Alone

TM-8: The Legal Clinic

TM-9: Advantages

TM-10: Disadvantages

TM-11: Interview the Candidates

TM-12: Weigh Advantages and Disadvantages

TM-13: Paralegals

TM-14: Fees--The Ultimate Sentence

TM-15: Hourly Rate

TM-16: Retainer

TM-17: Contingency Fee

TM-18: Flat Fee

TM-19: Disbursement Cost

TM-20: Fees--Get a Written Estimate

TM-21: Put Arrangement into Writing

TM-22: Insist on Being Informed

TM-23: Be Concerned If . . .

REFERENCES:

1. Editors of Consumer Reports, Guide to Consumer Services. Little, Brown and Co.: Boston, 1979.

2. Missouri Bar Association, Need Help to Find a Lawyer? Call Missouri Lawyer Referral Service.

3. Shopping for a Lawyer. Halt, Inc. 201 Massachusetts Ave., NE. Washington, D.C. 20002.

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ESTATE PLANNING

HOW TO CHOOSE A LAWYER (TM-1)

INFORMATION OUTLINE

I. COMPILE A LIST OF LIKELY CANDIDATES

A. Ways to Get Names (TM-2)
   1. Talk with someone in a field connected with your case (TM-3)
   2. Lawyer referral service (TM-4)
   3. Check with Legal Aid Services (TM-5)

B. Narrowing the Options (TM-6)
   1. Decide type of Lawyer (TM-7, TM-8, TM-9, TM-10)
   2. Interview the few Candidates (TM-11)
   3. Weigh all advantages and disadvantages (TM-12)

II. CONSIDERATION IN FINAL CHOICE

A. Special Background or Expertise in the Field

B. Use of Paralegals and Standardized Forms (TM-13)

C. General Impression of Lawyer, Office Set-up and Staff

D. Fees (TM-14)
   1. Forms
      a. hourly rate (TM-15)
      b. retainer (TM-16)
      c. contingency (TM-17)
      d. flat fee (TM-18)
      e. disbursement costs (TM-19)
   2. When payment is due

III. WHEN YOU HAVE MADE YOUR CHOICE

A. Put Arrangement Into Writing (TM-20)

B. Have Two Copies Which Both Parties Sign (TM-21)

C. Insist on Being Kept Informed About Progress of Case (TM-22)

D. Be Concerned if Lawyer: (TM-23)
   1. Doesn't stick to estimated timetable
   2. Doesn't provide information
   3. Fails to return phone calls
   4. Evades questions
   5. Advises changing course in mid-stream

THE LEGAL CLINIC

	YES	NO	DON'T KNOW
1. Is it a high-volume, high efficienty firm?			
2. Does it engage in advertising and publicity?			
3. Are the fees openly discussed and displayed?			
4. Does the firm utilize paralegals, standardized forms, central bookkeeping and computer information banks?			
5. Will the firm refer you to a proper attorney if they cannot handle your case?			
6. Are they really less expensive than private lawyers?			

INTERVIEW THE CANDIDATES

1. CALL FOR APPOINTMENT
2. ASK QUESTIONS--YOU ARE BUYING SERVICE
3. VISIT THE OFFICE AND SIZE UP OFFICE SETUP AND STAFF
4. ASK ABOUT USE OF PARALEGALS AND STANDARDIZED FORMS
5. ASK ABOUT FEES AND HOW THE LAWYER EXPECTS TO BE PAID

BE CONCERNED IF LAWYER:

1. DOESN'T STICK TO ESTIMATED TIMETABLE
2. DOESN'T PROVIDE INFORMATION
3. FAILS TO RETURN PHONE CALLS
4. EVADES QUESTIONS
5. ADVISES CHANGING COURSE IN MID-STREAM

F E E S
THE ULTIMATE SENTENCE

1. HOURLY RATE: $ amount paid for number of hours worked. Remember the rate should be less for a paralegal than a senior attorney.

2. RETAINER: Represents an advance payment. Be sure to get in writing that the retainer does represent advance payment. Also make sure that the amount of the retainer equals the amount of work done.

3. CONTINGENCY FEE: A specified percentage of the money awarded to the plaintiff in a successful law suit. Used in personal injury cases or other cases seeking money damages.

4. FLAT FEE: A specified amount to do a specified job. Example: A lawyer will generally charge $X for a will.

5. DISBURSEMENT COST: Out of pocket expenses of the lawyer while working on your case. Be sure to get an itemized bill before paying this fee.

YOUR LAWYER

POT LUCK

OR

CHOICE?

WAYS TO GET NAMES OF LAWYERS

WHICH ONE?

WHY?

WILLS?

PROPERTY SETTLEMENTS?

PERSONAL INJURY?

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TALK WITH SOMEONE IN A FIELD CONNECTED WITH YOUR CASE

ESTATE PLANNING--Accountant or Bank Officer

PERSONAL INJURY--Your Doctor or Insurance Representative
or Labor Union Officer

CIVIL SUITS--Civil Liberties and Civil Right groups;
Friends and relatives with similar problems

DIVORCE--Marital counselors, clergy, social workers.

LAWYER REFERRAL SERVICE

(See "Lawyers" in the
Yellow Pages of telephone book)

In Missouri Dial
1-800-392-8777
Toll Free

LEGAL AID SERVICES

Telephone Toll Free:

1-800-392-8771

TYPES OF LAWYERS

1. PRACTICE ALONE

2. PRACTICE IN SMALL FIRM

3. PART OF A BIG FIRM OR CLINIC

LAWYERS WHO PRACTICE ALONE OR IN SMALL FIRM

1. DEAL WITH PROBLEMS OF INDIVIDUALS OR FAMILIES

2. MAY GIVE MORE ATTENTION

3. MAY BE LESS EXPENSIVE

THE LEGAL CLINIC

	Yes	No	Don't Know
1. Is it a high-volume, high efficiency firm?			
2. Does it engage in advertising and publicity?			
3. Are the fees openly discussed and displayed?			
4. Does the firm utilize paralegals, standardized forms, central bookkeeping and computer information banks?			
5. Will the firm refer you to a proper attorney if they cannot handle your case?			
6. Are they really less expensive than private lawyers?			

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TM-8

ADVANTAGES:

1. LAWYER YOU SELECT WILL CHARGE ONLY A MINIMAL FEE FOR FIRST VISIT

2. STAFF LAWYER CAN SOMETIMES SOLVE THE CASE

3. STAFF LAWYER LEARNS ENOUGH TO MAKE APPROPRIATE REFERRAL

DISADVANTAGES:

1. ANY ATTORNEY WHO ASKS CAN BE LISTED

2. NOT AVAILABLE IN EVERY COMMUNITY

INTERVIEW THE CANDIDATES

1. CALL FOR APPOINTMENT

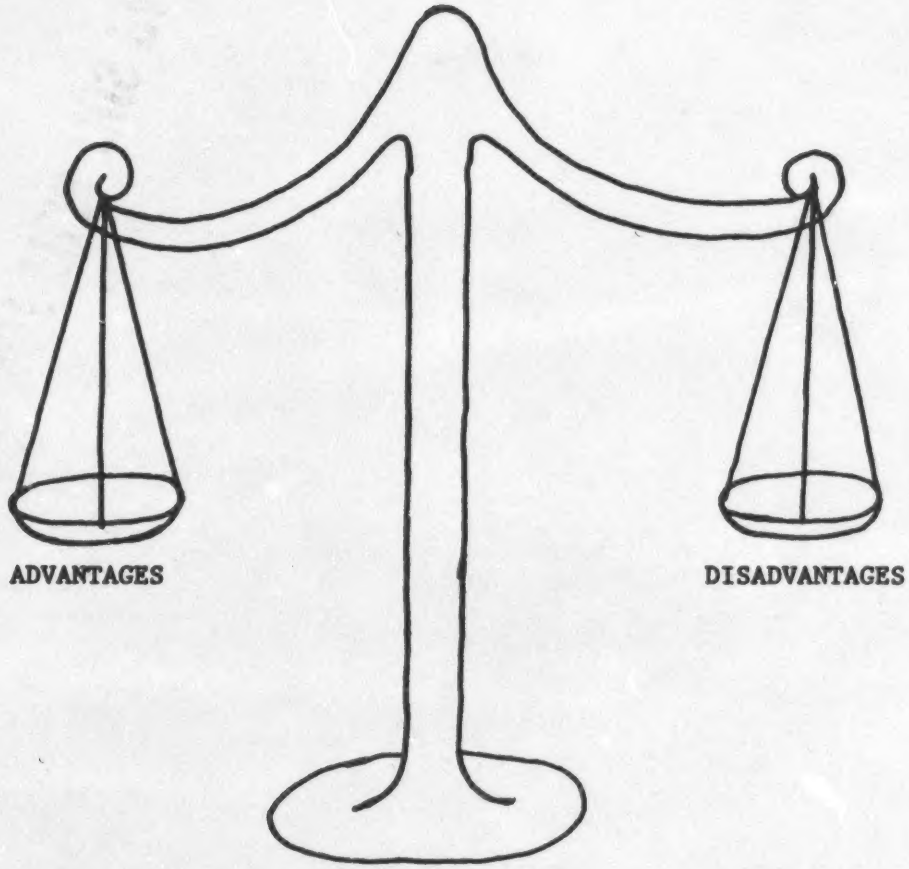
2. ASK QUESTIONS--YOU ARE BUYING SERVICE

3. VISIT THE OFFICE AND SIZE UP OFFICE SETUP AND STAFF

4. ASK ABOUT USE OF PARALEGALS AND STANDARDIZED FORMS

5. ASK ABOUT FEES AND HOW THE LAWYER EXPECTS TO BE PAID

WEIGH ADVANTAGES AND DISADVANTAGES



PARALEGALS

NONLAWYERS WHO DO ROUTINE LEGAL WORK UNDER SUPERVISION

FEES

THE ULTIMATE

SENTENCE

1. HOURLY RATE:

$ AMOUNT PAID FOR NUMBER OF HOURS WORKED.

REMEMBER THE RATE SHOULD BE LESS FOR A PARALEGAL THAN A SENIOR ATTORNEY.

2. RETAINER:

REPRESENTS AN ADVANCE PAYMENT. BE SURE TO GET IN WRITING THAT THE RETAINER DOES REPRESENT ADVANCE PAYMENT. ALSO MAKE SURE THAT THE AMOUNT OF THE RETAINER EQUALS THE AMOUNT OF WORK DONE.

3. CONTINGENCY FEE:

A SPECIFIED PERCENTAGE OF THE MONEY AWARDED TO THE PLAINTIFF IN A SUCCESSFUL LAW SUIT. USED IN PERSONAL INJURY CASES OR OTHER CASES SEEKING MONEY DAMAGES.

4. FLAT FEE:

A SPECIFIED AMOUNT TO DO A SPECIFIED JOB.

EXAMPLE: A LAWYER WILL GENERALLY CHARGE $X FOR A WILL.

5. DISBURSEMENT COST:

OUT OF POCKET EXPENSES OF THE LAWYER WHILE WORKING ON YOUR CASE. BE SURE TO GET AN ITEMIZED BILL BEFORE PAYING THIS FEE.

FEES

ALWAYS GET A

WRITTEN ESTIMATE

PUT ARRANGEMENT INTO WRITING

HAVE TWO COPIES WHICH BOTH PARTIES SIGN.

INSIST ON BEING KEPT INFORMED ABOUT

PROGRESS OF YOUR CASE.

BE CONCERNED IF LAWYER:

1. DOESN'T STICK TO ESTIMATED TIMETABLE
2. DOESN'T PROVIDE INFORMATION
3. FAILS TO RETURN PHONE CALLS
4. EVADES QUESTIONS
5. ADVISES CHANGING COURSE IN MID-STREAM

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